















THE  
CALCUTTA REVIEW.

MARCH, 1860.

ART. I.—*A Year's Campaigning in India, from March 1857 to March 1858.* By JULIUS MEDLEY, Captain, Bengal Engineers. London: W. Thacker and Co. 1858.

In a former number of this *Review* we entered into the history of Havelock's Indian Campaign, and ended with a hope that we might be able, at some future time, to enter into the further deeds of that force, which, with some additions to its strength, upheld its name so nobly, when ended the generalship of Outram at the Alumbagh. We now hasten to perform the, to us, agreeable task, and the more so, as beyond the few pages in the book now before us, (and these only relating to the latter part of the blockade,) we have not seen any account of the glorious defence of the Alumbagh by the force under Sir James Outram.

When the Commander-in-Chief left so suddenly on the 27th November 1857 for Cawnpore, Sir James Outram was left to defend the Alumbagh with the old force, strengthened by the military train, some artillery, and H. M.'s 75th. At that time we do not know what the exact number of the force might be, but, however, it was not above 3,000; it frequently fluctuated, and latterly it came up to 4,500.

The Alumbagh itself is a walled enclosure of several acres in extent, surrounded by a strong wall, with little pagoda-shaped houses at the angles, and towards the road a large doorway in the centre. In the middle of the garden itself stands a pretty large house. The garden is situated to the right of the road leading from Cawnpore to Lucknow, and is somewhere about two miles from the city itself. This then formed our advanced out-post, and was defended by a detachment of men and some guns. Behind, and about half a mile distant from this, the camp was placed, stretching in a straight line from right to left of the road. In a short time, as the enemy showed their teeth, various advanced batteries were erected, trenches dug, and abattis laid down; advanced posts were also erected at

either flank, that on the right being the old fortress of Jellalabad, which had been recently strengthened and repaired, and rendered capable of sustaining a defence.

For some days the enemy left us unmolested, so that our brave General had some few days to make his dispositions: on the 2nd of December it became evident that the enemy were preparing batteries to the left of our position. As the days wore on, it became more and more apparent that, while we were preparing for the defensive, the enemy were no less determined to assume the offensive. On our left front the enemy could be observed busily employed making batteries; and men on horse-back, well attired and evidently men of rank, might be seen superintending the erection of the works. On the right front the enemy seemed to be more quiet; but gradually, as time rolled on, the enemy became bolder, and in addition to firing from his guns, many attacks on both sides of our position were made, but always repulsed by us. When the force was broken up at the final taking of Lucknow our position was intact. Captain Medley thus describes the state of affairs at the Alumbaugh:—

“Skirmishing went on all the day long between our advanced pickets and those of the enemy, and his distant batteries usually blazed away a little morning and evening, but without doing very much damage. On certain days Pandy would screw his courage to make an attack, and then out they swarmed, very much in the old Delhi fashion: clouds of men advancing in front and on both flanks, and coming on very valiantly, until they got within grape distance of our guns, when they were usually pounded by the artillery, and if they gave a chance, charged by the cavalry. Olpherts’ battery and the military train particularly distinguished themselves in this work, and many hundreds of Pandies were slain in these attacks by those two corps.”

The first affair we had with the enemy was on the 22nd December, at the village of Gahilee. Information having been received by the General that a large body of the enemy were going to pass us and occupy the village of Bunnce, some six or seven miles in our rear, and thus to cut off our communication with Cawnpore, about half the force moved out in the direction of the Dilkoosha road, towards the little village of Gahilee. The force marched off very early in the morning, and while it was quite dark, headed by our brave leader. On we marched, and just at day-break reached a top of trees, in which the advanced picket of the enemy was placed; as we approached this picket we were immediately challenged, and then a jabbering, hallooing, and firing of random shots ensued. Our

party immediately divided, one part going with a hurrah after the enemy retreating from the garden, the other advancing towards the village of Gahilee, where two guns and a large quantity of ammunition were taken, so that they were defeated, and their plans entirely destroyed for the present. Our loss was upon the whole very trifling, two men were killed and a few wounded. The 5th and the Volunteer Cavalry had nearly if not all the casualties, some horses were also either killed or wounded—upon the whole, the expedition was a most successful one. An elephant from the enemy got astray and caused no little amusement running about, but fortunately doing no damage to any one; at last some of the Seikhs succeeded in capturing and leading him away in triumph, one of them acting as *mahout* with great glee. As our task was completed and the object gained for which we had been striving, we prepared to retire, with the Seikh Regiment of Ferozepore covering the retreat in skirmishing order. We had just been long enough on the ground, as it appeared, with our small force, for the news of our attack had evidently reached Lucknow, and like a nest of hornets they were coming down upon us; as we retreated, a few round shot came near us, but failed to do any damage, and we returned to the camp in safety, not a little pleased at the success of our raid.

For a few days we had a little more peace, and up to the 12th January we had only been attacked once at night in force, the Alumbaugh being the point of attack. On the 12th, however, there was a general attack by the enemy upon our position, but it terminated without their gaining any advantage.

It was our fortune to be out to the left of our position, where H. M.'s 5th and the Seikhs were sent to: a body of the enemy were posted in a village, from which we succeeded in dislodging them, but immediately behind this they commenced pitching 24-pounder shot, shrapnel, and grape very liberally into us, aiming very well for H. M.'s 5th, who were lying down, but injuring no one. The Seikhs had two men wounded slightly, and two men were wounded in the Alumbaugh: one officer had a narrow escape on the right, a round shot passing sufficiently near to contuse his arm.

The repulse thus made, and the loss they had sustained, prevented any further demonstrations next day; but it was rumoured that their third and grand final attack would be made on the 15th, when, if they did not exterminate us, the Lucknow *pundits* had it, their reign would be over. A melancholy accident occurred on the evening of the 13th: the sergeant major of the military train, while going his rounds, was caught by the rebels, and a coolie brought us in the

intelligence that his head was paraded through the streets next day as that of a great General. The cause of this distressing accident is not exactly known; it was supposed by some that he had got bewildered, and strayed into the enemy's out-posts; others thought that he had been challenged by a picket of the Sikhs, and, being bewildered by their challenge, mistook them for the enemy, and went away in the direction of the rebels, thinking he had just escaped from them.

The attack which was expected on the 15th January did not take place; but on the 16th a general attack was made by the rebels on both right and left flanks, but they were repulsed with loss at both points. On the right they charged a picket encamped at a battery we were erecting, but in which no guns were, a fact the rebels were doubtless as well aware of as ourselves. The picket had to retire to their entrenchments, and on a dense body of the rebels came, headed by a brave leader on a horse, and fantastically dressed; he was quickly popped off his horse. The Sikh Regiment of Ferozepore having received notice, and being close at hand, rushed along at the double, and with the picket succeeded in driving the enemy from the place. In their hasty flight they left two of their number wounded near the entrenchment. One of them was alive and sensible, with severe injuries of his legs; he had a red spot on his forehead, the mark of Mahabeer, the god of war; the mark was a fresh one, and, doubtless, before the attack, these men had been invoking success on their enterprise from Mahabeer, the monkey god, and god of war; this man was apparently only a soldier. The second prisoner we brought in seemed in a worse state than the other, and he turned out to be the leader, and with another officer we went up to where he lay, to see if life still remained. He had on a "mcerzai," with white piping made in the European fashion, which, on being taken off, showed beneath the coarse red serge clothes of a religious devotee. He apparently seemed dying from a series of injuries which he had received; both of his eyes had been cut out by sword cuts, a piece of his skull sliced off and lying loose, his thigh bone was also fractured, and he had some other injuries besides: he gradually showed signs of animation, and he was taken into the Sikh camp to try and extract information from.

When leading his force on so bravely, he was attired as Hunoomaun, with a curious hat on, and a tail behind him, made of twisted cane, with a flag attached to it. The cap was taken by the men of Her Majesty's 90th, who formed the picket, and the Sikhs got the tail into their possession—they are both now, or were, in the possession of Her Majesty's 90th, kept as trophies of the defeat.

The origin of this rash attempt was religious fanaticism; the leader personified the god of war. His followers had evidently wound themselves up to the highest pitch of religious enthusiasm, and probably had themselves besides drugged with bang; indeed, when the common soldier was interrogated as to who was the leader, he replied Mahabeer, and most likely they fancied that the real god had for the time entered the body of their leader, who, to do him justice, showed a bravery worthy of a better cause. He was very penitent, and owned to being the spiritual leader of the insurgents; he was a Brahmin of the dhoobie class, but some of our Sikh spies, who saw and spoke to him in Lucknow, averred that he was the leader of the insurgents round about us. In reply to inquiries, he sometimes said he was in the 9th, sometimes in the 22nd N. I.—the evidence seemed to be in favor of his having been in the 22nd N. I.\*

On the next day we had a false alarm. On the 18th the camp was quiet enough, but it was said that on the 19th the grand attack would take place. The leader of the rebels, who was our prisoner, advised us to be on our guard; but he said that, although there were upwards of 200,000 soldiers in Lucknow, there were in reality none, for that they were only so in name, and that they were all arrant cowards. The anticipated attack did not come off however, and it was then rumoured that the rebels were nearly at their wit's end, being without proper leaders, or any combined plan of offensive operations. It was also said that they were greatly annoyed at the loss of their spiritual leader, that the shops of Lucknow were closed when the news arrived, and that a general looting match took place, a queer way of showing grief.

On the 21st four Sikh Cavalry were reported to have given themselves up, and it was said that fifty more wanted to come in. The rebels were said to be anxious to come in also, but wanted their former rights restored to them, in fact, the *status quo ante bellum*. The Begum was said to be also willing to come in, if her life and the life of her son were spared.

\* The future history of these men may not be uninteresting. Sir James Outram allowed them to remain with the Regiment of Ferozepore under Dr. Brown. The sepoy died, but the leader recovered, was taken with the Sikh camp to Lucknow, and remained in their camp during the final taking. He was made over to the civil authorities, condemned to death, but recommended to mercy by Major Barrow, who was made acquainted with the circumstances of the case. The last time we heard of him he was sent to his village, in truth he could do no further harm. He was known in the camp as Bedeckedas Hunoomann, and the origin of his name is too good a joke to pass unrecorded. In the despatch or notice of the attack he was described as advancing bedeck'd as Hunoomann, this probably was not very distinctly written, for it was transformed into Bedeckedas Hunoomann when it was noticed by the authorities. This man possessed great influence, and was really the spiritual leader of the Hindoos. He is said to have received Rs. 200 a day.

The last attack seems to have dispirited the rebels not a little, for on the 22nd we were not disturbed, the only event, beyond the usual firing from our batteries and theirs, being that of a few sowars having been seen hovering in our rear, and some of them being cut up. H. M.'s 34th, some of the Rifles, and twelve guns were reported to have arrived at Bunnee, and to be coming into camp, the first appearance of the beginning of the end—the final taking of Lucknow. The 23rd passed over quietly enough. The 34th and Rifles did not come in, but a party from our camp went out instead to Bunnee to convey the provisions they had brought thus far with them; it was reported that the 31th were to remain at Bunnee, and the Rifles at some place nearer Cawnpore. Between this and the 25th there was a state of comparative quiet, but it was reported that the rebels had carried their ammunition across the canal bridge of the Cawnpore road, a sign of coming fear and of their intention to concentrate themselves in the city itself. Indeed, from all accounts, they were now pretty frightened, for it was also reported that 8,000 men had gone home under their Chiefs, and that the Begum wanted to come into our camp, but was prevented by the belt of desperate men around us. It was also rumoured that a vakeel had gone off to the Commander-in-Chief.

It seemed pretty clear from all that could be learned, that we were now only fighting with the mutinous sepoys, who, their fate being sealed, were desperate as an Asiatic can be. The events of the next few days were so meagre that we have nothing of moment to record. On the 26th an unfortunate coolie was struck by a round shot at the left advanced village, and the poor Oude villager, who had only been laboring as a working man,\* was soon minus an arm. On the 29th we had very little firing from the enemy; it was said that the city was in great confusion, and the people in great consternation, saying that it was of no use to resist the English.

The natives in Lucknow had it that Bareilly was taken. Two drivers of a gun battery and a native doctor of the 2nd Oude Irregulars came in with the usual story of imprisonment and escape. There can be no doubt of the occasional truth of the statement, but the number of escapes from imprisonment must have been very large, to judge from appearance; but in truth the Asiatic saw then that ours was the winning side, and

\* This man recovered perfectly. The Medical Officer who attended him and the Superintending Surgeon recommended him to Sir J. Outram for a pension. We afterwards saw in General Orders that Gungoo (which was his name) had been pensioned by Government, an act of generosity, and likewise of justice, to this poor villager maimed in our service.

Accordingly they came to us in numbers, when our success was certain.

What a curious psychical study the Asiatic is ! To him patriotism is an unknown word. How ready the discontented, the disaffected, and the truly vagabond were, when the winning side seemed to be that of the rebels, to hunt to the death, torture, and up-root whole families of our countrymen with a persevering blood-thirstiness perhaps never before seen since time was. Then came a period when there can be no doubt of our success, and it is astonishing with what zest the natives often assisted us to promote our dominion and re-establish order. But let us be just also, for during the time of the rebellion they could do no other in many cases, but go with the stream and give adhesion and obedience to the governing power, whatever that power might be. We never believed that the mutiny was a popular one, but when anarchy became paramount, what could the people do, but go with the stream and obey those in power. It must have struck the people of most villages and the inhabitants of most towns that in those dreadful days, when not only European rule, but the very face of an European was not to be seen, the chances of our recovering our raj were very remote indeed ; yet that to the great mass of the people the abolition of the British rule was a boon, we do not believe and cannot admit. To the designing hunter after power, the descendants of some former rulers, the fanatical Hindoo or Mahomedan, and the lawless budmash, the change was doubtless a welcome one, but the abolition of order reacted on the well-disposed, and they must have found in the new Government that sprung up, with their frequent forced subsidies and the want of order and lust of plunder in their followers, a sorry substitute for our Government, which, with all its admitted imperfections in detail, is based on those principles of truth and justice which belong to a nation professing the Christian religion.

On the 1st February we had a false alarm ; as the enemy were observed in great force near the Alumbaugh on the Dilkoosha road, it was said that they would attack us, and that while we were out, the natives in camp would fire our tents. False alarms were very prevalent at this time, for next day we had a false alarm. The Moulvie, who was now said to be leading the force against us, had, it was said, been in confinement, and had promised, if released, to drive us back into the Ganges ; but it was also said that, when released, he ran off as fast as he could.

Little of consequence occurred for the next few days, but as usual in cases of little work, rumour with her many tongues was busy. The spies brought intelligence that twelve regiments



had gone away to fight in other parts of Oude, and twelve regiments remained.

The Begum, liberal in her distress, sent a khilut to Maun Singh of Fyzabad, and ordered him to go and fight against Jung Bahadoor's force, which was steadily progressing towards Lucknow.

The Moulvie still held aloof and sulked; he had also some presents sent to him from the Begum, but he refused to go to the Kaiser Bagh to see the Begum, or to be reconciled to her in any way—doubtless he was savage at his imprisonment and at the slight thrown upon him. The Moulvie, like many other able men, was only respected in dangerous times apparently.

It was also reported that the entrenchments recently occupied by us had been levelled to the ground. It was said that there was a talk of pending negotiations in the city.

The Begum waxed more and more liberal as her danger increased, for she offered to all landholders who would come and fight in her behalf two years' free tenure of land.

On the 13th February it was reported that Maun Singh had returned to Lucknow, and that 2,000 men out in the district had also returned. Nothing disturbed the routine in camp, no attacks, but the usual firing from the hostile batteries continued. H. M.'s 75th Regiment were ordered off to Kussowlic, their old station, on this day, and marched off the next. This about the last of the Delhi force in the field got quarters, but poor old Havelock's force was still in the face of the enemy.

On the 15th the enemy summoned up sufficient courage to again act on the aggressive. This time they attacked the extreme left; a European soldier and a native artilleryman were the casualties on this occasion, the European was only wounded, but the native was killed. Rumours were afloat in camp that the rebels were again threatening Cawnpore.

On the 18th February the enemy again attacked us, but this time it was a night attack that they favored us with. It lasted four hours, and the din and tumult during that period was of the most unparalleled character: mingled with the roars of cannon and the firing of musketry might be heard the usual jabbering of the mighty host, the hum of an Asiatic horde—which once heard is not easily forgotten, and which, instead of carrying to you the idea of order, makes you believe that every one is acting on his own authority, and wants his neighbor beside him to do the same as himself.

If this huge unwieldy mass did not perform deeds of valour and behave itself in an exemplary manner, their Moulvies, Goo-roos, and buglers did. The buglers kept incessantly sounding the advance and the double in their—alas!—obdurate ears.

• The Moulvies were roaring themselves hoarse, and the Goroos of the Hindoos were sounding their conch shells, but all would not do; and they retired after their four hours' hard work, well mauled, while we had only two men wounded.

The scene was altogether a novel, and a most impressive and grand one. The night was dark, and only illuminated by the myriads of flashing light, principally from the enemy's large front, and caused by the discharge of their muskets; then came the sharp rattle of their immense volleys, mingled with the flash and the hoarse boom of our guns from the Alumbaugh, while we stood still awaiting the advance of the immense hordes collected around us; but by and bye the din waxed fainter, the terrific fire lessened, and evidently relieved by their truly great exertions, they retired, and thought themselves very brave fellows indeed.

The exertions they so perseveringly made were followed up next day (18th February) by another attack upon our position. We were out with a portion of the force for three hours in the sun, and felt very fatigued and exhausted after it—we felt in any thing but an amiable mood towards the rebels. They annoyed us a good deal with 9-pounder shot from a horse battery, but it ended as usual in our maintaining our position.

Up to the 25th February troops had been gradually arriving, the 7th Hussars, Hodson's Horse, the 1st Bengal Fusiliers, and a battery of Horse Artillery having arrived, and on the 25th the whole Cavalry, the Horse Artillery, and nearly all our Right Brigade went out to the right to try and catch a couple of horsed guns which had been annoying us lately. We perfectly succeeded bringing in a 9-pounder gun and a 24-pounder howitzer, with 12 horses belonging to them, and we succeeded in killing a great many of the enemy besides. Towards the left of us a heavy fire was kept up as we advanced on the right; with some of the Horse Artillery and the Seikhs the village was taken with a hurrah, the enemy scampering away. But the hottest work took place nearer Jellalabad, where our force in most part advanced to capture the guns. Our casualties for the day were four men killed and thirty-two wounded, upwards of twenty horses were also disabled. Our casualties were principally caused by musketry fire from trees, the sepoys having hit upon this mode of fighting, at last they were dislodged principally by grape shot, but not without having caused no little trouble. This was not the first time they had tried firing down from trees. When the Commander-in-Chief relieved Lucknow, the enemy tried the same plan at the Mahomed Bagh.

On the same evening, about 5 P. M., the enemy, doubtless not a little enraged at the loss they had sustained, commenced a most terrific fire of musketry upon our position to the right, which continued until 3 next morning. They attacked us repeatedly on that side, and were always repulsed with loss; the rumour next day in camp was to the effect that in two days they would exterminate us. Meanwhile we were cheered by the news that Brigadier General Franks had attacked Sultanpore and taken twenty guns, nine of them being of large calibre, without losing a single man. It was also said that Peel's battery, with the 42nd and 93rd, were in camp some few miles off. The Commander-in-Chief arrived in the camp, collecting in our rear, and on the 1st March he paid our camp a visit, again returning to his camp some miles off. The enemy were very quiet, and it was rumoured among us that they were deserting the city in large numbers.

On the 3rd March, the Commander-in-Chief, with the 42nd, 34th, 38th, 53rd, 93rd, and Coke's Rifles, ten troops of artillery, and a large body of cavalry, marched past. This imposing force, although quite near, was scarcely discernible from a heavy shower of rain. In a very short time we heard, to our surprise, his guns and musketry on our right flank, and they proceeded on to the Dilkoosha, overcoming all obstacles, capturing two guns, and having only a few slightly wounded. Doubtless the easy manner in which the force got so far in advance was owing to the Commander-in-Chief not having halted, but pushed his troops on, as the enemy most likely calculated on his joining our force first and then marching on.

It was rumoured in our camp that Brigadier General Walpole's division marched the next day with the siege train and all the cavalry. It was said that the cavalry were to cross the Goomtee and cut up all fugitives. We were also told that the Commander-in-Chief was not taking the Martiniere, for while it was in possession of the enemy, they could not place their guns so well against us. We also heard that the enemy were flying from the city in great numbers.

On the 5th March came the first symptom of the breaking up of our force. Sir James Outram left us on that day to take charge of a division, the Command devolving upon Brigadier Franklyn. On the same night Maude's Battery left us, and on the evening of the 6th the Governor left us also. The evenings were now much quieter, although the guns of the Commander-in-Chief's force had been saying very little, but the batteries were preparing; so we lived in daily expectation of hearing a grand roar.

On the 10th March the Alumbaugh and ourselves had suddenly to part company, for we also had now received our notice to quit, and had to march on a dark cold night to the Dilkosha, arriving there on the morning of the 11th. Before we arrived at our destination, we had to lie down a little, as we could not make our way to our position in the dark, and might have found ourselves on the guns of the enemy. In the morning, as the light came in, we saw the vast Army in its tents, truly a cheering sight to us, who had been accustomed to a small force battling against vast hordes, but here at last seemed something commensurate with England's greatness and renown.

Here then may be said to end our actual experience of the Alumbaugh. After we left, the 5th, 78th Highlanders, Madras Fusiliers, and some Artillery held their own nobly against a determined attack of the enemy. At last they also were ordered to advance and hem in the rebels, but owing to some misconception of the leader of the force, an Officer since dead, the object was not attained. And thus quietly and by piecemeal was this force broken up, which had so arduously defended its position before Lucknow for so long a period. We use the word arduously with great confidence, for most of the force was incessantly on the *qui vive*, and the camp was in many respects like the standing one before Sebastopol, for, although in point of bravery, our enemy was not to be compared to the Russians, yet in point of annoyance and preparation, we probably were as much put about as was our enemy in its standing camp in the Crimea.

We need not follow our victorious army, step by step, through the siege of Lucknow, until the final taking of the city, with its enormous defences, but cowardly defenders: these events have been often described. We will content ourselves with some few concluding sketches of camp life and character at the Alumbaugh.

And first of our brave General, whose merits every one is aware of, and whose generosity to his soldiers, and care of them is only equalled by his rare abnegation of self, and the way in which he avoids pushing himself before the public gaze. Of him it may be said, if it can be said of any one in a public capacity, that he was beloved by every one, and no trait in his character stands forth more pre-eminently than the manner in which he tries to advance the interests of, and prove a true friend to, those whose merits have entitled them to his favorable opinion. Of his bravery it is scarcely necessary to speak, yet we would allude to his charging at the head of the Volunteer Cavalry during the battle of Mungarwur,

and with his stick knocking down the retreating rebels. At our attacks he was generally seen riding to the front, with his heavy massive face, quite unconcerned apparently, and with his never-failing cheroot in his mouth, which was generally rather well chewed than well smoked. He was as cool as if he were on parade.

Of his arrangements at the Alumbaugh no one can speak but in terms of the highest praise, when with scarcely 3,000 men at first he successfully kept his position. All felt, from the complete and thorough manner in which preparations for defence against the enemy were made, that they were under the control of a master mind, and of one who, while he was, in questions of duty and discipline, the rigid General, was also the amiable private gentleman and the kind and indulgent friend of the soldier. It is strange after all that Sir James Outram has done, that higher honors have not been heaped upon him, but so much that is done by him is expected of him, that less notice is taken of his deeds, than if he were a less notable public man. Higher than all the honors he has or can possess, must be his conviction that those who have been under him both respect and revere his many great and amiable qualities.

As regards food, we were better off than in the Residency ; but yet were far from perfection beyond our rations. Little was to be had, and we were for a long time badly off as regards what in England are termed luxuries, but which in India are real necessities—fowls, eggs, beer, wine, and cheroots. But gradually, as our position became established, and the villagers round about saw that we were willing to pay for what we got, a bazaar sprung up, while the Baboos, whose love of gain is greater than their fear of danger, avowedly great as that is, brought over supplies of good things from Cawnpore at exorbitant prices, but still consisting of articles which we were glad to get at any price. The bazaar soon became a very stirring place, a fashionable lounge in fact ; lots of soldiers in easy undress, with their short cutty pipes in their mouths, might be seen wandering about the street of little tents, buying tobacco, pipes, &c., with an officer here and there ambitious of investing in cheroots, wine, or brandy.

Upon the whole, the soldiers seemed to enjoy themselves despite their hard work at the Alumbaugh, for their supplies of clothing were often arriving, and their rations, to which they were already accustomed, were very plentiful. To the officers the ration food was scarcely so palatable. Many officers with an eye for the comfortable had huts built of mud, some of twigs and wooden rafters and supporters, and the architectural designs were of the most fanciful description ; yet on two points

they generally agreed—those of comfort and warmth. The soldiers were encouraged to be cheerful by having games got up by subscription among the officers, but their greatest amusement was riding about on sorry little ponies, country tats, which they picked up for a trifle. Had the General wished his force to be a mounted one, he could have a goodly number of the equine species in camp, and lots of soldiers willing, although scarcely able to ride them, although, as they rushed past in twos, running races on the native saddle, they seemed to think themselves pretty able too. The most irksome thing for all was the state of preparation you had to be in, for night attacks necessitating your generally lying down in your clothes, for when a night alarm took place, regiments were formed in front of their tents so quickly that dressing was out of the question. The cold, too, to us at first insufficiently clad, was very trying, especially in the mornings; we shivered and stood against an old wall to catch the cheering rays of the sun; but, upon the whole, the change was infinitely better when compared with the Baillie Guard. The camp at night was a fine sight: you had the tents of our soldiery in front, and those of the officers behind, with a general quiet pervading them: a few soldiers in groups walking about conversing, while behind was the hum of the vast native army of followers, singing, jabbering, and enjoying themselves to their hearts' content. But, upon the whole, they were a rather noisy set, especially when they struck up some native air, with perhaps twenty vocal performers, and a good many tom-toms: mingled with their hubbub was the cry of that ill-natured, but much-praised animal, the camel, whose cry is literally a heart-rending one. Here you would hear an elephant some distance off trumpeting, there a troop of jackals would be "whoop, whoop, whooping," and the general din would be enlivened by the pertinacious braying of the hosts of dhobies' jackasses. We lost many a night's rest from the latter, and often vowed to be the death of them.

The native army was composed of cooks, dhobies, syces, dooly-bearers, &c., all indispensable, but of the whole the dooly-bearers were the most notable; their numbers were pretty great, and, indeed, they and their doolies formed no small feature of our camp, and among these doolies they lived. Ever ready, ever willing, they, a poor humble race, deserve a passing tribute for their services in this campaign. Often exposed to danger, wounded and killed, as we have known them to be, yet, as a rule, they kept true to us, and in the terrific rush into Lucknow under Havelock, those who reached the Residency, equally with ourselves, had to run the gauntlet of that fearful fire and arduous struggle, which at last terminated in our reaching the beleaguered garrison

—poor fellows, they had to take their chance of wounds equally with ourselves. All honor to those humble bees in the great hive, without whom we would often have had many a poor European, helpless from disease, or wounded by the enemy, left behind to a fate we shudder to think of, for were we to tell of our greatest fear, it was that we would fall alive and helpless into the hands of the enemy—the thought of this often threw a dismal shade across our not too imaginative mind. It is pleasing in the dismal record of native treachery and bloodshed to record one bright phase in the history of the Mutiny. We willingly record it also as we believe it is not undeserved.

We must bear testimony to the bravery of our troops, and the gallantry and courage of our officers, and in doing so, there is brought to our mind a very brave act which we did not record as we ought to have done in our running narrative of the blockade. Major Gordon of the 75th, having charge of an advance battery to our left during one of the attacks, saw the sepoys coming on to attack his post with loud exultant cries, apparently sure of their prey. The Major told his men to keep out of sight and reserve their fire of musketry and grape; the enemy, by their cries and confidence, seemed to think that we had either deserted or were deserting our post, so on they boldly came—bang went the guns loaded with grape, killing a number, and totally routing the enemy.

One scene we saw is worth recording in these scraps of camp life, which shows that, if natives behave themselves in such a way as to gain our esteem, they are not neglected by us. Lieutenant-Colonel Olpherts, whose name is synonymous with courage, intrepidity and daring, had one of his native drivers killed in one of the attacks made upon us, and in one of our evening rides we observed this poor man's funeral proceeding along with one European Officer among the throng, his commanding officer: it was a graceful tribute to a departed faithful servant of our Government, in troublous times, and we have no doubt was much observed and appreciated by the natives as such.

At the extreme right of our position was the post of the Seikhs in a half ruined village, and on one of the houses was a rather tall turret, on which was placed a large telescope for the purpose of observing the movements of the enemy; this was a favorite resort of the officers of the camp, who used to come up to see what was going on, and to hear the news from Lieutenant-Colonel Brasyer, the Commanding Officer of the Seikhs, who had generally spies out, and whose news was frequently very important. This officer, who has deservedly risen to a high position by his talents and hard service, had,

from his knowledge of the native language and character, a wonderful knack of eliciting information from natives—consequently his turret was the scene of many a pleasant gossip.

Space will not permit of our entering upon the deeds of regiments individually or their several brave leaders, nor is it necessary that we should do so, as their deeds are known to the world at large.\* In these days of medals and clasps, it appears to us that the exertions of this force merited a clasp. But when Havelock's force has no distinctive mark until it enters Lucknow—the whole mark of that force, up to the rescue of the garrison, being the India Medal, and after that period one clasp, with Lucknow upon it—we need not wonder at Outram's defence of the Alumbagh sharing a like fate. We have attempted to fill up a small gap in the history of the Mutiny, which may be of some little service to future historians. We believe that the story of Outram at the Alumbagh, well told for years to come, will form one of the brightest spots in our annals of the Indian Campaign of 1857-58.

\* The troops that defended Alumbagh were Olpherts' and Maude's battery, with perhaps another—we scarcely recollect now, Military Train and Volunteer Cavalry, Her Majesty's 5th, 75th, 78th, 84th, and 90th Light Infantry, Sikh Regiment of Ferozepore, and some Madras Sappers and Miners.



**ART. II.**—*Report of the Select Committee appointed to inquire into the Progress and Prospect, and the best means to be adopted for Promotion of European Colonisation and Settlement in India, especially in the Hill Districts and healthier climates of that Country, as well as for the extension of our Commerce with Central Asia. Ordered by the House of Commons to be printed. August 9, 1859.*

THE Select Committees, appointed by the House of Commons in the Sessions of 1858 and the first Sessions of 1859, to inquire into the progress and prospects, and the best means to be adopted for the promotion of European Colonisation and Settlement in India, made from time to time five several Reports of the Minutes of Evidence taken before them; but the latter of these Committees came to a premature decease on the sudden dissolution of Parliament in April 1859 without having made any final Report upon the result of the inquiry.

The present Parliament appointed a new Committee, consisting of the following Members, *viz.* :—Messrs. William Ewart, Henry Baillie, Gregson, Kinnaird, Knight, Lowe, Arthur Mills, Richardson, Danby Seymour, John Benjamin Smith, Vansittart, Villiers, Sir Erskine Perry, and Colonel Sykes, all of whom had sat upon the former Committee of 1859, to whom were referred the evidence reported by the former Committees. This last Committee, after taking further evidence, made their final Report upon the whole on the 9th of August last.

We must confess that the effect produced upon us by a first perusal of this Report was a feeling of disappointment. The Committee appeared to us not to have bottomed most of the subjects into the investigation of which they had dived. Indecision in opinion and hesitation in suggestion characterised some portions of the Report, while in others conclusions were jumped to from what seemed to be very insufficient premises. We are, however, inclined to believe that the over-wrought expectation entertained by the Indian public of what a Parliamentary Inquiry into Indian grievances would bring forth, rather than any failure of industry or ability on the part of the Committee, has been the cause of our dissatisfaction. The organism of Indian society is so intricate that it cannot be understood from any merely telescopic observation. Patient and searching inquiry on the spot is needed: and perhaps the best use that we can make of the Report before us is to point to it as showing the necessity for a local Commission to elicit information which has escaped the notice of a Committee sitting in London; and to arrive at certainty upon questions, with respect to which that Committee

has, in many instances, rather disclosed a doubt than formed a judgment.

We cannot deny, however, that the Committee have done excellent service by setting at rest, in a very decided manner, a discussion which, as long as it remained open, involved danger to the fortunes of many an industrious English laborer. The Committee "think it proper to commence their Report by a 'restriction, obvious to almost every one, of the sense in which 'Colonisation must be applied to India. Though sanctioned in 'its application to that country by modern usage, and by such 'high authority as that of Lord Metcalfe, the term 'Colonisation' must, in this instance, clearly be limited to a class of superior settlers, who may, by their enterprise, capital, and science, 'set in motion the labor, and develop the resources of India." The Committee go on to remark, that "the inducements to a 'settlement of the working classes of British Isles are not 'generally to be found in India. Those inducements are high 'wages, the facility of obtaining land at an easy rate; the enjoyment of a constitution framed after that of the mother-country; a temperate climate, and the prospect of forming a part 'of a community speaking our language and conforming to our 'manners and customs. The settlement of India took place at 'a period of remote antiquity. Its lands have mostly been 'appropriated; the wages of labor are low; its Government is 'absolute; its climate is generally unfavorable to the permanent residence and increase of the British race, and to labor in 'the open air; and its usages, languages, and religions are 'strange and repulsive to the English laborer. For these 'reasons, and in accordance with the testimony laid before them, your Committee are of opinion, that India cannot compete with the boundless regions of America or Australia as 'a home for the laboring emigrant."

We are grateful to those who have, by such plain-speaking, saved us from the prospect which the assertions of a class of writers, who sought safety from a repetition of the horrors of 1857 in planting British communities here and there throughout India, threatened, if uncontradicted, to present to us, of deluded English villagers burying their hopes and their children under the jungle miasma of Bengal or the fierce hot winds of the Upper Provinces. Labors have not been fruitless, which have produced a paragraph fraught with so much practical good sense as is to be found in that which we have quoted; and it is therefore in no carping spirit, but solely with a view to profit, that we proceed to notice some of the particulars in which we consider the Report defective or unsatisfactory.

The Committee, after repudiating "Colonisation," recommend "Settlement," limited to the capital and skill-endowed classes, by the following general description of its results:—

"It is stated by \*witnesses generally, that wherever Europeans have settled, a marked improvement in the country has followed; the various products of the land have been developed, settlers have taken the lead in introducing steam navigation, and in discovering its indispensable auxiliaries, coal and iron; in the extension of roads, and in generally lowering the cost of production.

"It is justly observed by Mr. Marsham,\* that, from their intercourse with the people, settlers must naturally know more what is passing in their minds than the agents of the Government: the position of the settlers rendering them vigilant and interested observers of the tendency of native opinion.

"Where they reside, the rate of interest, often exorbitantly high, becomes reduced. The circulation of ready money is extended, and a steady rise takes place in the rate of wages.

"Another good effect of settlement is its tendency to promote the maintenance of order. A large extension of the number of settlers over India would be a considerable guarantee against any future insurrection, and would tend to lessen the necessity for maintaining our expensive army."

Now, without denying the truth of a single statement in the above passage, we complain that the Report is defective in putting by, altogether unnoticed, the hotly-contested controversy: whether the signs of improvement, alluded to as attendant upon the presence of the European settler in India, are faithful *indicia* of a real increase in the prosperity and happiness of those among whom he has fixed his dwelling, or only of a state of things changed for the better merely as regards the author of the change. This controversy is not maintained against the settler merely by Hindoo and Mahomedan journalists, who might be supposed to echo the sentiments of native zemindars, jealous of a class of neighbors who rival their influence and dispute their power. One of those journalists has recently pointed attention to the following extracts from an official paper addressed to Government by Mr. Seconce, while Judge of Nuddca, a district abounding with indigo planters, and where, perhaps, the sort of civilisation which the European settler carries with him is farther advanced than in any other district in India.

\* So is John Marshman, of the *Friend of India*, styled throughout the Report.

Mr. Sconce writes:—

Possibly, the main cause of objection to the cultivation of indigo is ascribable to the losses it entails, the sufficiency and quality of the crop being precarious, and the unliquidated advances being an irredeemable burden. It is admitted that planters cannot cultivate indigo by their hired laborers. They cannot make it pay. The returns do not remunerate them with sufficient profit over and above the expenses of labor. Planters, therefore, prefer to throw the expenses of cultivation on the ryots. Planters pay for the crop, ryots give their labor to produce the crop; but have we grounds to assume that the ryot succeeds in a crop which the planters fail in? The precarious nature of the crop there is no contesting: and an enquiry of greater interest cannot be suggested than that of ascertaining both, whether the ryot's absolute share of one year's crop be a just return to him for that year, and whether it be sufficient to cover the losses he incurs in a series of years. Some planters, it is said, take four bundles, some take six bundles of cut plant to the Rupee; and whether it be from generosity that one confines himself to the lower rate, or from right that the other enforces the higher, it is understood that, generally speaking, ryots are never in a condition to relieve themselves from balances written against them in the factory accounts.

But, as I understand, the connection of the planter and ryot is not simply that of a cultivator working upon the advances of a capitalist. The planter is not, and yet is, the cultivator. He selects the land; he directs and compels the ploughing, and the sowing, and the weeding. The land is "his cultivation," and the ripened crop is cut for his vats. Unquestionably, by the energy and attention of the planter, the land is likely to be better tilled, and the crop more productive: but it is more in place to consider, whether the interference which he exercises, and the right he asserts, are compatible with his abrogation of the responsibility of a cultivating farmer, with the freedom and rights of the ryot, and the adequate remuneration of the ryots enforced, but, possibly, judiciously directed labor. An advance of two Rupees a beegah cannot justify the assertion of every sort of right, nor is it in any fair sense a measure of the ryot's duty to labor, or the remuneration of his labor and his expenses additional to his own labor. Rather is it the reverse of the acknowledged remuneration of an exacted or required service, for to whatever extent the crop fails, the labor is practically disavowed, and the money paid in anticipation is written back as a debt against the ryot. It seems to me that it is only by treating the subject in this form, that the admitted unwillingness of the ryot to grow indigo can be thoroughly understood. Probably, his unwillingness is not feigned, and I feel deeply the importance of giving a definite if it were a true expression to his objections.

Again, it is universally assumed that, in this district, ryots do not retain more than a half or a third, or less than a third of the advances ostensibly paid to them. The chief or a large portion is absorbed by the factory amlah. Public officers, European and Native, Native residents of the district, and others, speak of this as a fact which they believe, though possibly not one party so speaking can specify any case falling within his individual knowledge. Public report may be as exaggerated as it is indefinite: necessarily a good deal depends upon the planter's personal supervision at the time his money is distributed, and it may be feared that the most commendable efforts of the planters, who distribute their own advances, are, to some extent, defeated by the mean speculation and unconscientious and faithless fraud of dependents, from which they, no more than the public departments of the State, can reckon on being exempt. My attempt to explain the reasons which possibly determine the ryot's

aversion to grow indigo would be incomplete, if I omitted this misappropriation of his advances. It is by the advances that the contract is professedly constituted; and obviously the countenance and aid to be given to that contract by the law should be materially affected by our assurances that the ryot fully received, or was responsible for not fully receiving, the consideration stipulated in his agreement.

I do not know to what extent the advance consists, partly of cash, and partly of unliquidated balances of past years. I have seen cases in which the advance, expressed in a renewed contract, consisted wholly of the balance of an account. I have seen a case in which, for the cultivation of  $3\frac{1}{2}$  beegahs, the advances consisted of eight annas cash and six Rupees eight annas of old balances. Generally, I apprehend, the entire advance is in cash: this is a point, however, (as indeed are many others,) upon which I do not possess exact or sufficient information: but even the exception to the general rule must be deplored which would invoke the aid of penal law, to enforce the labor of the ryot for the adjustment of an old and unchecked debt.

Here, as in Pubna, there is the same unwillingness on the part of the ryot to cultivate indigo, and on the part of the zemindar to let indigo be cultivated. From both parties over all floats a shadow of dissatisfaction, which, however, it may veil the nature and force of underlying interests or passions, is itself palpably manifest. Both say, we do not want it; we would rather be let alone; but practically both accede, one to the cultivation of the repudiated crop, the other to the sub-letting of his estate to the proprietors of factories. But they say more, they say they act under constraint, and are unable to abide the issue of an unequal struggle. No one more than myself abhors dishonesty, or the exertion of malicious influence, from whomsoever it proceeds. I have nothing to say in favor of ryots who accept advances only to embezzle them, or of zemindars who, for selfish and fraudulent ends, instigate the evasion of the mutually beneficial and mutually acceptable engagement of planters and ryot; but I can not convert dissent into fraud, nor can I presume that the profits of a favorable speculation are, in the eyes of the zemindars and ryots, to be derived, not from carrying the speculation to a completion, but by condemning the crop and incurring the perils of mis-appropriating the planter's advances. Mr. Beaufort states, but does not attempt to account for, the motives of zemindars in instigating ryots to evade their indigo agreements. In this district such interference is comparatively rare, but, supposing it were not so, and that the fact is as asserted, it cannot be without a purpose that zemindars oppose the cultivation of indigo; indeed, they can assign no stronger reason than the Pubna ryot himself assigns, that indigo is a losing crop—but, besides, the Pubna zemindar may be influenced by other motives, which it is as important to ascertain. That the zemindar should seek a share in the ryot's advances for the adjustment of his rent is not censurable. Probably when the advance is made, seven or eight months of the Revenue Year have gone. The advance is all that the landlord sees in the shape of harvest to cover his claim, and when the real harvest is cut well into the second year, far from yielding rent to the zemindar, it may be, and often is, largely insufficient to balance the planter's pre-payment to the ryot; and surely in the mere matter of mis-appropriating advances, upon which Mr. Beaufort lays so much stress, and which it is the express purpose of his letter to bring within the cognizance of the criminal law, the remedy is in the hands of the planter. Let him not advance at all. He knows the zemindars and people are unmistakably averse to the engagement he binds the ryot by. Let, then, the ryot cultivate his land in his own way with indigo if it be profitable, and with advances, if advances be desirable to him, paid at the risk of those who are

willing to accommodate him. It is the business of the legislator to exhaust, not to increase, the opportunities from which spring public crime.

There is no advantage in an advance itself. It is notoriously an expensive incumbrance. A ryot, who from his own resources pays his rent, supports his family, and cultivates his rice, his dall, his jute, his oil seeds, without advances, is far more prosperous than a ryot who cannot do the same things without borrowed money. It is not the apparent temporary convenience that the ryot's profit for the year begins and ends with. To be sure in indigo the advance is too often the ryot's whole harvest. But I speak just now of the general uses of advances, upon which there is much misapprehension. It is not the advance, but the completed harvest of the whole year, that determines the prosperity of the ryot. He is not prosperous, he is not benefited, if the debt scored against him exceeds the crop which he is supposed to have reaped. And, again, the advance is itself nothing, except it be the representative of the rent, and food, and wages, and more happily these sources of wealth may be permitted to represent themselves. Without an advance, as with an advance, a ryot may buy cattle, till his land, and pay his landlord's rent: but this is all outlay on his part; a means to an end; and it is by measuring his in-coming crop only that we can congratulate him, or his country, upon the resources he is supposed to be the instrument of developing—an exhausting crop may impoverish the people as well as the soil. Under such circumstances, it is a striking scientific error to commend or justify the employment of advances. Capital superficially spent is mis-spent, and labor mis-directed is lost and wasted. I need not say that I do not depreciate the value of indigo. To some it is a source of great gain, and I do not doubt that even the ryot's reluctance to cultivate indigo may be conciliated, and the zemindar's opposition overcome, by the recognition of the ryot's right to retain a profitable interest in the produce.

Mr. Sconce is a Member of the Legislative Council of India, to which post he was raised from the Bench of the Sudder Dewanny Adawlut, to the universal regret of the suitors and practitioners of that Court, whose respect he had gained by his able, zealous, and impartial discharge of his judicial duties. What such a man writes has imperative claims to attention. We do not take his letter, as the native journalist to whom we have alluded would have us do, as proof that indigo-planting is an unmitigated evil; but we do say that it discloses good ground for an investigation into the relations between planter, zemindar, and ryot, without which any inquiry into the subject of European Settlement in India must be regarded as most incomplete. We are far from thinking that such an investigation would give a result unfavorable to the planter. We cannot indeed conceal our belief that the ryot is often an unwilling cultivator of indigo, working under pressure, applied by means partly lawful partly unlawful. We observe, even while we are writing, a proposition going the round of the Indian Press for securing a supply of laborers for the tea plantations now in the course of formation in Assam, by procuring an Act to be passed by the Legislature prohibiting the cultivation of the poppy in that district. This well illustrates the disposition of the European

to use means more effective than mere persuasion to introduce his improvements among the less energetic Asiatics. We do not imagine that the Legislature will interfere, but we have little or no doubt that the poppy will die out in Assam; while the proposition we have noticed shows that the legitimate influence of the tea plant is not sufficiently powerful for the extirpation of its rival. Similarly we feel pretty sure that the complaint, that indigo cultivation is to some extent forced upon the ryot, is not without foundation. But we also shrewdly suspect that the inquiry which would establish that fact would bring to light the existence of a system of land tenure in India such that no new or improved cultivation can be introduced without more or less compulsion upon the ryot. The agricultural laborer has been patronised by the British Indian Legislature into a state of independence, which enables him, if his legal rights be fully respected, most effectually to oppose his inertia against the march of improvement. We hold it to be utterly impossible that the resources of any country should be efficiently developed, while the land is parcelled out into small holdings among that class which is socially in the position of the English day laborer, more especially where the climate and soil are such that life can be sustained without discomfort by a very insignificant amount of exertion. Yet to bring the country into the condition just described has, at any rate as regards Bengal, been the aim of British legislation for India. The rights of the ryots were, when the East India Company began its course of rule, in a great measure undefined; and, where defined, rather theoretical than realised in actual engagement. Those of all, except the comparatively small number called *khoudkhast ryots*, were liable to be swept away by the title of the zemindar, to whom they were subservient, being brought to the hammer at a sale for arrears of Government revenue. Precarious as were such rights, they were lightly prized, and would have been unregretfully relinquished. The policy of the East India Company has been to uphold and strengthen them. By so doing, the Company, whether willingly or unwillingly, raised an obstacle to the progress of European settlement far more powerful than statutes authorising the deportation of interlopers, the corruption and inefficiency of the Police, Black Acts, or Land Revenue Laws. It remained, however, for the Queen's Government to put the finishing stroke to the work of excluding the European from India.

By Act X. of 1859, it is enacted that—

“Every ryot who has cultivated or held land for a period of twelve years has a right of occupancy in the land so cultivated or held by him, whether it be held under pottah or not,

‘so long as he pays the rent payable on account of the same ;  
 ‘but this rule does not apply to khomar, necj-jote, or seer land  
 ‘belonging to the proprietor of the estate or tenure, and let by  
 ‘him, on lease, for a term, or year by year, nor (as respects the  
 ‘actual cultivator) to lands sub-let for a term, or year by year,  
 ‘by a ryot having a right of occupancy. The holding of the  
 ‘father, or other person from whom a ryot inherits, shall be  
 ‘deemed to be the holding of the ryot within the meaning  
 ‘of this Section.”

This Act, under the seemingly harmless title of “an Act  
 ‘to amend the law relating to the recovery of rent in the Pre-  
 ‘sidency of Fort William in Bengal,” has, in fact, changed the  
 tenure of the larger portion of the soil of that Presidency.  
 The cottier, who has, or whose forbears have been twelve years  
 on the estate, is made the real landholder. The “proprietor of  
 the estate,” so called in mere mockery, has but the right to  
 demand the rent. By another Act, No. XI. of the same year,  
 the highly favored ryot is protected from any attempt to dis-  
 turb him in the possession of his ancestral estate of a few  
 roods by means of the operation of the Revenue Sale Laws,  
 hitherto used periodically to clear estates of incumbrances.  
 The 37th Section of the last mentioned Act provides that “no  
 ‘purchaser of an estate in the permanently settled districts of  
 ‘Bengal, Behar, and Orissa, sold for the recovery of arrears of  
 ‘land revenue, shall be entitled to eject any ryot having a right  
 ‘of occupancy at a fixed rent, or at a rent assessable according  
 ‘to fixed rules, under the laws in force, or to enhance the rent  
 ‘of any such ryot otherwise than in the manner prescribed by  
 ‘such laws, or otherwise than the former proprietor, irrespec-  
 ‘tively of all engagements made since the time of settlement,  
 ‘may have been entitled to do.”

The effect of these Acts will be to stereotype its present  
 appearance of alternate jungle and rice-fields upon the face of  
 Lower Bengal; yet the Parliamentary Committee, sitting at  
 Westminster to report upon the means of promoting the im-  
 provement of Indian agriculture, makes its report in complete  
 ignorance of their existence. This is abundantly evident from  
 the following remarks contained in the Report on the subject  
 of “legal title to land.”

One of the great defects felt by settlers in the present state of the law is  
 the difficulty of proving the legal title to land. It may be often said that  
 the purchaser of land does not know what he purchases. After a purchase,  
 it would appear that numerous fictitious claimants to the property start  
 into existence to question the title, and disturb the repose of the purchaser.  
 A power to call the claimant at once into Court would probably stop these  
 fictitious claims. The ryot's title to the land should be ascertained. The



ryot's rights (says Mr. Underhill) have been left uncertain in Bengal since the time of Lord Cornwallis. The consequence has been the occurrence of frequent conflicts between the zemindars and ryots. But the ryots are generally at the mercy of the zemindars. There is in Bengal a class called the *khoddkhast* ryots, holding land under an hereditary tenure of uncertain origin. It is desirable, for the security of dealings in land, that their position should be declared by law. Boundary disputes are frequent. Floods often cause an immense change in the boundaries of land, and give rise to undue claims on the part of the Government. Another complaint, especially on the part of the land-owners in Bengal, is, that when the zemindar or superior estate is forfeited, a subordinate estate, the putnee, is also involved in the forfeiture. In such a case, the under-tenant or putneedar is liable to loss, perhaps to ruin, for the act or omission of the zemindar, or the zemindar's agent. It has been attempted to remedy this defect by a Lands Sale Bill, introduced by Mr. Grant, which, though excellent in its object, appears not to have been passed, owing to some objections of detail. It has been much urged upon the Committee that the putneedar should be allowed to exempt himself from forfeiture by paying his portion of the land-tax separately, without being liable for the non-payment of his landlord, the zemindar. As British settlers are frequently holders of putnees, the question is one of great importance to them. Forfeitures sometimes arise from slight, perhaps from unavoidable causes, as from the agent omitting to pay his land-tax duly four times a year, or from its non-payment before sunset, or from the vendor withholding a part of the land-tax, or it may happen from the fraud, as well as from the negligence of the native. Thus, the natives, by means of a secret trust, or *benamnee*, as it is called, may annul, or encumber with a law-suit of many years' duration, the bargain for transfer which he has made with an European. Or in the case of putnees, the zemindar, having received a sum from his proposed under-tenant or putneedar, makes default to the Government, forfeits his estate, and re-buys it under a false name; under which operation the putnee disappears. A forfeiture again may sometimes happen from want of due attention to forms on the part of the Government Collector, whence, many years afterwards, a bargain may be overturned. It has been suggested that the Collector should make preliminary inquiries that, after due inquiry and sale, no appeal should be allowed, that registration should be made of all transfers of property, and that such registration should be compulsory.

The framers of the above paragraph were ignorant as well of the discouragement which recent legislation had offered to the European settler by enactments, the effect of which will be to oblige him to put each improvement which he may be anxious to introduce to the vote of a village population possessing the right of universal suffrage, as of the attempts which had been made in his favor, with a view to give him greater security in his relation of under-tenant of the zemindar. The Act above alluded to, No. X. of 1859, contains provisions for a mode of registration of talookdaree and other similar tenures, and of farms for terms of years held immediately of the proprietors of estates, by which such tenures and farms, after being sanctioned by the Revenue authorities, may be secured against any auction purchaser at a sale for arrears of revenue, including the

Government. Thus both for good and evil legislation in Calcutta had anticipated suggestion from Westminster.\*

We think we have shown enough, in connection with the single subject of land tenure, to make good our proposition that the labors of the Parliamentary Committee can be regarded as merely preliminary to a more complete and minute investigation, which a Committee working in India would be alone able to conduct in a satisfactory manner. An examination of the Report under other heads would serve to strengthen our position. The law of contract is noticed, in order to introduce a suggestion that a narrower limitation of the time within which actions on contract may be brought might be introduced with advantage. We, who are on the spot, know that this had already been done by an Act passed in May 1859. The difference of opinion among Indian Law-reformers as to the expedience of making English the language of the Courts of Justice is glanced at; but the competence of the Committee to deal with the question may be doubted, when we observe them attaching credit to the statement that "the language now used in the courts of Bengal, the *Hindee* (!), is not generally understood by the people of Bengal, nor very much more understood than the Persian language (then the legal language) was *ten years ago*." The existence of the "Black Act" controversy has not escaped the Committee, but they offer no opinion on either side. The police and the roads of India are alike condemned; but the Committee, with the limited information which it possesses, does not venture to suggest any plan for the improvement of the one or the other. An opinion is expressed that "the dangerous effect of the climate of India has been considerably exaggerated;" but it is evident that the Committee has been mainly helped to arrive at such a conclusion by the English-farmer-like complexion of the retired and re-invigorated planters who attended to give evidence before them at Westminster. The practicability of rearing a family in the plains, and the alleged "dying out" of European stocks planted in India, are not entered into. The Hill Districts are glanced at, but it is with the eye of a tourist rather than of a statist. The products, vegetable and mineral, of India, are enumerated in a style which might be considered masterly in a speech from the hustings, but which to capitalists looking out for investment must appear to partake of the character of vagueness. The "constitutional question," as it

\* This article was written before the disturbances, which lately assumed so threatening an appearance, in the Indigo Districts of Lower Bengal had commenced. The Commission for holding an investigation into the relation between Planter, Zemindar, and Ryot, recommended by the writer, has now become an acknowledged necessity.

may be termed, of India is disposed of in the following curt sentences :—

“There is one very important point on which the witnesses appear to concur: that is, the introduction of non-official Europeans and Natives into the Council of India. The example of Ceylon is quoted to show the good effects of this reform. It is stated that one of the defects of the Legislative Council is a want of local knowledge. Such knowledge the reform suggested would supply.”

The fact is that the Committee had not, and could not have, before them a sufficient body of evidence to furnish materials for a Report worthy of a subject of such vast importance as the means of applying the energy, capital, and skill of England to the development of the natural wealth of India. The Indian witnesses examined consisted of about a dozen planters, half a dozen engineers, half a dozen civilians, four or five officers in political employ, two or three surgeons, three lawyers, five travellers, two missionaries, and two newspaper editors. With information elicited from so limited a number of sources we might expect the Committee rather to indicate than to investigate the lines of inquiry into which the subject before them ramifies, and this is precisely what we think has been effected by them in their Report.

What we now require is a Committee or a series of Committees to be appointed by the Legislative Council, composed of members representing the different interests involved in the subject of the inquiry to be prosecuted by each Committee, to hold their investigations in those localities where evidence relevant to the matter under investigation most abounds, and furnished with powers to compel the attendance of witnesses. There is no country in the world where information more frequently “with unexpected light surprises” the local searcher after truth. How long, for instance, may we ask, might a Parliamentary Committee on Indian Finance have sat at Westminster, before it would have discovered that Indian town populations, whom the imposition of an Income Tax might perhaps drive to revolt, would accept, almost with enthusiasm, a scheme of octroi duties; how long before it would have arrived at the fact, that the native capitalist, if he must submit to a direct tax, would prefer to satisfy the wants of Government at once by the contribution of a lump sum out of his principal, rather than submit to an annual deduction from his income?

We may shortly recapitulate a few of the subjects to which we should wish the attention of our local Committees to be directed.

First would come land tenure and relations between capital and agricultural labor.

We have said before, that we do not suppose that the planter has any cause to fear to have this subject opened up. We observe that, by way of set-off against the statements contained in Mr. Sconce's letter above quoted, an indigo planter, who has the management of one of the most extensive concerns in Bengal, and has no less than 467 villages connected with the property under his charge, has recently resuscitated the following remarks made by the late well-known Rammohun Roy :—  
 "As to the indigo planters, I beg to observe that I have travelled 'through several districts in Bengal and Behar, and I found 'the natives residing in the neighborhood of indigo plantations 'evidently better clothed and better conditioned than those 'who lived at a distance from such stations. There may be 'some partial injury done by the indigo planters: but, on the 'whole, they have performed more good to the generality of the 'natives of this country than any other class of Europeans, 'whether in or out of the service." We also observe that the same gentleman addressing the public journals fearlessly challenges the appointment of a Committee, such as we advocate, asserting that "the result of inquiry would triumphantly 'exhibit at the present time a realisation of the conclusions 'drawn by the gifted Rammohun Roy thirty years ago."

We want a full report on the roads and the police of India. The Committee do little more than tell us that both are bad as bad can be. This we unfortunately knew but too well before. How should they be made better, and at what and whose cost? What main routes ought to be opened at the expense of the general revenues, and for each is the rail, the road, or the canal the more suitable? By what municipal system should a network of practicable bye-roads be spread over the country? and to what extent and by what means would it be advisable to levy tolls? What organisation of police would be at once safe and efficient? How should the detective and protective elements be apportioned? How far should central and how far local management be called into play? What are the existing police funds? What rates would be necessary to maintain an improved force, and upon whom would they properly fall?

We want a good account of the Hill districts. The information given to us upon this subject by the Committee is contained in the following passages, extracted from their Report :—

One of the special branches of the subject referred to the consideration of your Committee was the fitness of the Hill Districts of India for the reception of European Settlers. "There is hardly a province throughout

India," states an eminent medical man, Mr. Martin, "where there are not mountain-ranges available for civil and military residence." Mr. Martin's attention was first called to this circumstance with reference to the army; and he has long since submitted to the Government of India a report on the necessity for the preservation of the European army of the permanent removal of a portion of it to the hills. "The monotony of a barrack life on the plains of India, without congenial employment or resource," is stated by several witnesses "to be destructive both to mind and body of the soldier."

It is said that settlement in the hills will tend more than any other circumstance to attach European families to India. The capitalist, living himself in a higher climate, may direct the progress of labor in the plain. Railways will give a great facility to residence in the hills. One is already contemplated to Darjeeling. It is stated that these "hill-climates" have not been sufficiently explored. Many reports have been written upon them, but it is desirable that agents on the spot should more closely examine them, and that their researches should be made public. So far as your Committee have inquired, climates favorable to European health may be found at a due elevation on the Himalayas, on the Neilgherries, and on other hill ranges yet incompletely explored, especially in the south of India. At about 4,000 feet above the sea level the Himalayas offer an European climate. On the eastward portion, indeed, of that extensive range, the prevalence of rain may be frequently a serious objection; though not so formidable as is generally supposed. Further to the westward the rain-fall sensibly diminishes. It has been suggested that asylums, like those originated by the lamented Sir Henry Lawrence, might be advantageously formed on the hills, where, in a climate like that of our own country, the children of soldiers and of other persons might be trained, with a special view to the practical improvement of India, and to the acquisition of a knowledge of the people and the country. Mechanics and practical agriculturists are greatly wanted in India. The planters state that young men acquainted with the native languages are much required for their establishments. Thus educated, they might also be employed, as commercial travellers are in this country, for extending the commerce and manufactures of Great Britain and of Europe in the east.

Few objects of contemplation, can be more interesting than the formation and progress of these establishments on the hills. The rapid rise of the settlement at Darjeeling, in Sikkim, about 300 miles north of Calcutta, is described in the interesting evidence of Dr. Hooker. It appears that the population (4,000 or 5,000 in 1818) doubled itself in the course of two years.

The natives of Bhootan, Thibet, and Nepal flocked to be employed by the Europeans. The rapid increase of wealth and population is described by Dr. Hooker as more resembling that of an Australian than an Indian settlement. Dr. Campbell, the energetic Governor of Darjeeling, established a fair in the neighborhood, by which he attracted the natives from all the surrounding countries. In a similar manner Captain Ochterlony describes the rapid growth of a settlement on the slopes of the Neilgherry hills, in the district of Malabar. In the year 1845, a tract of forest, till then the haunt of tigers and wild elephants, was discovered favorable to the growth of coffee; settlers, attracted by the facility of acquiring land, rapidly resorted to it. In the year 1856 the wilderness had become a colony; the forest had been cleared for miles; excellent roads extended in all directions; and villages, bazaars, and well-conducted schools were founded. Here, as at Darjeeling, great improvement has resulted among the surrounding natives; almost every cottage has its coffee ground; vast jungles have been cultivated, and malaria has disappeared.

There are three climates at three different elevations in the Neilgherries. The rainy season may be escaped by migration from one part of the hills to another. Clouds, throughout the summer, temper the heat of the sun. The roads are good. There is a large extent of waste land fit for cultivation. The tea-plant is said to thrive admirably. Fuel was formerly much wanted in the Neilgherries; but peat, found generally distributed over the hill tracts, is stated to be sold at the rate of 2s. 6d. a ton. The increase of the population at Ootacamund has been from 9,383 in the year 1848 to 56,900 in 1856. This increase has proceeded, as in the already cited instance of Darjeeling, mainly, or entirely, from the surrounding country. On these hills, it is suggested that superintendents of estates in Mysore, Coimbatore, Malabar, and Canara, might reside. The Railway will open them to residents in Salem, Madras, and more distant places. The adjoining territory of Coimbatore is one of the most celebrated parts of India for the cultivation of cotton, which may be further developed in Salem and Trichinopoly. The coffee grown on the slopes of the Neilgherries is stated, on the authority of Colonel Onslow, to be among the best in the London market. The cultivator of a coffee estate, long-resident there, states his profits to have been 100 per cent. He adds that British settlers, understanding the cultivation of coffee, might certainly make a similar, or approximate profit. The lands whence this profit is derivable were all formerly forest-lands, the haunts of elephants, tigers, and other wild animals.

The Pulney Hills, although not so high, are stated to enjoy a delightful climate. They, too, will be opened by the completion of Railways. The climate of the Shevaroy and Coilamully Hills is favorably described. Their maximum height is said not to exceed 4,500 feet. The Baramah, Coimbatore, and Travancore Hills are said to be still unexplored. It is stated that there is no part of India of which we know so little as of Travancore.

The "resources of Mysore," says Colonel Onslow, "are not generally known." Of all countries, he adds, "it is the most favorable for settlement." The country of Mysore rises high above the sea, having an average altitude of about 1,500 feet; in the south, of nearly 3,000 feet. Many English pensioners and other inhabitants are settled there at present, much preferring such residence to a return to England. They are stated to want a better title to land reclaimed from the jungle, and an immunity from the chance of future arbitrary taxation by the native Government. Mysore contains an estimated population of 4,000,000. It is said to produce coffee, sugar, wheat, oil-seeds, hemp, cattle of a remarkably fine breed, and it is probably capable of producing tea. The climate, during eight or nine months of the year, is very suitable for Europeans; fever however, is found there. Bangalore is a most healthy region; it is 2,800 feet above the sea-level. Many Europeans reside at Bangalore. Chapels, churches, and other public buildings already give it a European character. Soldiers marry and settle there, and live, as it is stated, in a climate far superior to that of Europe. The vicinity of the Neilgherries and other Hills give European families the benefit of a change, when a change is needed. The wages of labor are very low in Mysore; capital is much wanted there. It could be successfully applied to the cultivation of coffee and sugar, and of cotton also, a very fine quality having been produced. The cultivation of sugar, especially under the influence of irrigation, is greatly increasing. The quality of the coffee is very fine, the price it brings being nearly equal to the price of Mocha. The jungle land in Mysore is put up to sale; it is sold free from land-tax. The production of wool is increasing in Mysore, the merino breed having been successfully introduced by the enlightened British Resident at the Court of Mysore, Sir Mark Cubbon,

who is, in fact, the ruler of the country. The wool of Mysore is already much noticed in the British market. Very fine iron ore is found in Mysore, but fuel, for the present, is wanting. On the vegetable products of Mysore, the effect of irrigation is said to be "prodigious." There exists an immense number of tanks in the country, fed by the rains on the Western Ghâts. These tanks extend for miles, and in their neighborhood the sugar-cane grows in profusion. It may be a point of interest to settlers to know that great improvement has arisen from the abolition of at least 600 taxes and transit duties in Mysore; the result has been an immense increase in the revenue. With all these advantages, the population and prosperity of Mysore are increasing rapidly. The roads and bridges in this well-managed country are said to be excellent; and a simple, though summary system of law prevails, free from the technicality of the Regulation system. Here, as in other places, where there is spare land, it is desirable that power should be given to acquire the ownership of land in fee simple.

Another favorable position for settlers exists in or near the tea-growing countries of Assam and Cachar. Not far from Assam are the Cossyah Hills, 5,000 feet high, where, in the opinion of a medical man, Dr. Barry, Europeans and their descendants could continuously live. The climate is represented as a delightful and beautiful one. The distance from the hills to the nearest tea grounds is about 30 miles. A resident, it is said, on these hills, might direct labor on the plains. Tea (the cultivation of which in Assam is adverted to in a subsequent part of this report) will grow also on the hills. Their distance, however, from the principal tea district is 300 miles. The population of Assam amounts to about 1,000,000. The country is stated to be in a most orderly state, survey and registration having been completed there. They have a simplified code of law, based on the Regulations; the parties in the suit being at once called before the Judge. One point of great importance to settlers in or near Assam is the steam navigation of the River Brahmapootra for a distance of 800 miles. Steam navigation was begun in the year 1850. The shortest voyage by water from Calcutta to Gowhatty in Assam formerly occupied, in the country boats, three months. The passage is now made by steamers in eleven days. Good coal is said to be found all along the southern hills in Assam. Iron ore, also, in apparent abundance, is to be found in the hills. The making of iron is indeed the occupation of the hill people. The streams of Upper Assam are said to yield gold-dust. It appears that silk might be largely cultivated. The people themselves were formerly clothed in silk. China grass, an article of some importance, grows in Assam; the application of a machinery is required to separate the fibre from the stalk. Caoutchouc, also, is produced in Assam. It may be an useful practical hint for settlers to know that the cost of living for one person would be in all about £120 a year; and that in three years his receipts would "cover his expenses." The country is so intersected by streams, that almost all communication is by water.

We do not deny that there is much to interest in the above general description. But we require the joint labors of medical, agricultural, botanical, geological and engineering science to be brought into play to furnish such information as may lure the stay-at-home, English capital, to regions where the profitable and the picturesque are combined. We should like to be told of Travancore something more than that "there is no part of India of which we know so little."

The products of India deserve a full and accurate report. That of the Committee does hardly more than prove how well. We subjoin what they say on the subject:—

The opinion of the Committee of the year 1848, as to the indispensable necessity of cheap conveyance for the extension of cotton cultivation, is amply supported by the evidence taken before this Committee. This necessity is peculiarly remarkable in the case of an article of which the bulk bears so large a proportion of the value. Roads, (the necessity for which has already been mentioned,) railways, and canals will offer obvious facilities for the conveyance of cotton as well as of other products. But the attention of your Committee has been specially drawn to the improvement of the navigation of the Godavery, which would open to settlers or to agents the country of the Nizam, and the extensive cotton-fields of Berar. Captain Haig states, that if the Godavery be made navigable, cotton may be brought from Berar to a port for shipment at the cost of one-eighth of a penny per pound; the present cost of carrying it from Berar to Bombay, on the backs of bullocks, being  $1\frac{1}{2}d.$  a pound. Great loss is now caused by the admixture with the cotton of dirt, refuse, and water added for the purpose of increasing the weight of the cotton. These artifices would be at once checked by European superintendence and European machinery. The settler should himself, on the spot, direct the labor of the native, otherwise he will be liable to mismanagement or to fraud. Machines might, in time if not now, be let out to the natives. The sawgin is used in the South Malhratta country, where the first plantation of New Orleans cotton was made in the year 1845. It appears that, in the year 1856, 1,12,000 acres of New Orleans cotton were then under cultivation in that country. In Guzerat, it is stated, that the management of cotton is much improved: more care is taken in packing and in cleaning it. Only one English settler, Mr. Laudon, appears to have devoted himself to the purchase and cleaning of cotton in Guzerat, but eminent success has followed his exertions; his cotton always commanding a higher price in consequence. Mr. Laudon states that his machinery does the work of 3,000 natives. The good effect of irrigation on the cotton plant is stated in the evidence of Mr. Balston and Colonel Onslow. The spinning of cotton, so far as it has been tried, is said to have been very successful in Bombay, where the shares in Spinning Companies are at a very high premium.

It may be interesting to settlers to observe the statements of General Tremenhoe and Dr. Moore, that wheat can be grown more cheaply in India than in America. Splendid crops are said to wave over the Punjab, which is often one vast expanse of corn. "Any extent of wheat," says Sir John Lawrence, "can be grown there;" and he adds, "sells at harvest time at about 40 lbs. for a shilling." Some details on the price of wheat may also be found in the evidence of General Tremenhoe. The finest wheat is stated to have been sold at Jubbulpore at the price of 12s. a quarter. Wheat and barley grow extremely well in Sind, but for want of due means of transit the grain is left to rot on the grounds. "The price of excellent wheat, on the banks of the Godavery," says Captain Haig, "is 1s. or 1s. 6d. a bushel; a large portion of which might be made available for export at Coringa."

Your Committee has already adverted to the immense supply of tea now gradually being opened to the capital and skill of settlers on the whole line of the Himalayas, and probably in corresponding climates, like that of the Neilgherries, in other parts of India. It is highly probable that a taste for tea will extend itself over India. There is also reason to hope that the tea of the Himalayas may displace the tea of China in the



markets of Central Asia. "The tea plant," say the Messrs. Schlagintweit, "might be cultivated all along the Himalayan range, so as to produce an almost unlimited supply of tea; it is cheaper and better than the tea of China." It appears also that there are different qualities of tea (though all apparently good) in different places of cultivation. The culture of the tea plant opens an immense futurity to settlers from Europe. There is no sort of cultivation, according to the testimony of Colonel Vetch, more congenial to European ideas, habits, and constitutions. An account is given in the evidence of the more advanced tea cultivation of Assam, and of the terms on which the Government of India disposes of the land. The same terms appear to apply to Kumaon and Dehra Dhoon, and to other countries near the Himalayas. The Assam Tea Company appears to have been formed in the year 1837. In 1840 they produced 10,000 lbs. weight of tea; in 1858 the production had risen to 770,000 lbs.; this year (1859) the production will probably exceed 800,000 lbs.; and in four years hence, it will probably rise to 2,000,000 lbs. There are now at least twenty factories in operation in different parts of this province. In Debrooghur, where not long ago the jungle was infested by wild elephants and beasts of prey, there are ten plantations. The cultivation is now extending itself in Middle and Lower, as in Upper Assam. It is stated that the profits of the Assam Tea Company amount to nine per cent. per annum. But it is probable that much higher returns of profit would be obtained by individual enterprise. Obstacles to tea cultivation are found in the danger from fever, (which, however, disappears as the jungle is cleared away,) and in the dearth of labor, aggravated by the propensity of the Assamese population to consume opium, which causes debility in the constitution, and degeneracy in the race. Even the children are consumers of opium in Assam. The Assamese grow it in their gardens. It has been proposed by Colonel Vetch to correct the evil by imposing a license duty on the growth of opium.

Separated from Assam by the Naga Hills, lies the tea-growing country of Cachar. Before tea cultivation began, this region was almost unknown. Twelve Tea Companies are stated to be established there. As in Assam, labor is difficult to procure; there is, however, no opium-eating among the laboring population of Cachar.

The terms on which land is held in Assam and Cachar are complained of both by Colonel Vetch and Dr. Barry. "If a certain portion is not cultivated within a certain time, all right is forfeited, not only in that portion, but in the cultivated portion also." A contingency like the dishonesty of a native agent may cause the non-cultivation of a portion of the land. The land may even be forfeited in consequence of the unforeseen absence of the proprietor. Both Colonel Vetch and Dr. Barry coincide in thinking that the settler should have the power to acquire the land in fee-simple. They also suggest that a supply of labor might be obtained by extending the emigration system to Assam and Cachar, under the same regulations which prescribe its application to the Mauritius, and that a line of steamers would promote this object. But it is also reasonable to expect that higher wages will hereafter tempt the needy emigrant from places where he is now unemployed to the more lucrative market of Assam.

Of these countries, it may be observed that Colonel Vetch states Assam to contain more waste land than would supply all England with tea; and that Dr. Barry adds, "that there are thousands upon thousands of acres available for tea cultivation in Cachar."

The war with Russia naturally called out the fibre-producing power of India. The impetus thus given to the production of fibrous plants appears likely to continue. Hemp, equal to the best hemp of Russia, if it were

only like Russian hemp sorted and selected, might, it is said, be grown within the Saugor and Nerbudda territories sufficient for the consumption of all England. The line of railway projected through those parts of India will probably have the effect of turning European skill and capital in that direction.

Great complaints of the want of a supply of flax are made by the linen manufacturers of this country. Many mills are on this account closed or working short time. It is stated in the evidence that, with a good supply, we might double our linen trade. There appears to be the promise of an abundant supply in the Punjaub. But the right mode of preparing the flax is not understood. It is considered that an agent might be advantageously sent out on the part of the Flax Association to guide and superintend the labor of the natives. It is said that their attention has hitherto been directed to the production of the seed rather than the improvement of the fibre. For the export of flax the rising port of Kurrachee would have the advantage over St. Petersburg of being opened throughout the year. Of these and other products of the soil, it is stated by several witnesses, that the best mode of dealing for an European, is to buy the article from the native instead of cultivating it ourselves.

No measure will be more favorable to the rising prosperity of India and to the encouragement of British settlers there than the development of its coal and its iron. Evidence will be found in the Report on both these subjects; rather allusively, however, than in detail. Railway communication has opened the coal of Burdwan, and will open that of the Nerbudda District, bringing both into connexion with a supply of iron. The coal of the Nerbudda is stated to be peculiarly good, and especially adapted to the purposes of steam conveyance. Very good coal is also to be found in Assam, as well as iron ore, neither of them far from the waters of the Brahmapootra. General Tremenhore speaks of large masses of iron seen projecting from the hills of Tenasserim, and of considerable deposits in Kumaon and Gwalior. Captain Haig describes the immense stores of iron ore as resting on the banks of the Wain Gunga, a tributary of the Godavery.

The iron of Jubbulpore will be developed by the railway passing near it; it appears that there are 1,200 small furnaces there already. The people of Sheffield, according to the statements of the Mayor and Master Cutler of that place, who appeared as witnesses before your Committee, highly value the iron from Porto Novo, in the Presidency of Madras; they describe it to be as good as Swedish iron, and state that, if it could be sold at a moderate price, it would almost supersede the use of Swedish iron.

Prolific as America is of wheat, perhaps of cotton, rival of China in the tea trade, of Russia in the hemp market, a land whose stones are iron, India, England's own, visited weekly by her mail steamers, almost within whisper of her telegrams, possesses wealth more real and vast than the Ind of the poet. Yet of either wealth the statistics are almost equally unknown to England. Can it be held beneath the notice of Government to supply that information, without which the oft-repeated phrase, "development of the resources of India," is but a figure of speech?

ART. III.—1. *The History of India. The Hindu and Mahometan Periods.* By the HONORABLE MOUNTSTUART ELPHINSTONE. Third Edition. London. John Murray. 1849.

2. *An Account of the Kingdom of Cabul and its Dependencies, &c.* By the HONORABLE MOUNTSTUART ELPHINSTONE. New and Revised Edition, in two Volumes. London. Richard Bentley. 1839.

SELDOM has any man who filled such important public offices, and achieved so great an amount of public good, so completely slipped out of the recollection of his cotemporaries as the late Hon'ble Mountstuart Elphinstone. In his youth the protégé of Major General Wellesley, Elphinstone's life, perhaps above the lives of others, caused the Duke of Wellington to express his astonishment that of all the distinguished men he had known in India so few should have achieved a European reputation. It is certainly remarkable that the man who, in his manhood, was the Governor of a province and the historian of India, and in his old age was the tried adviser of Presidents of the Board of Control and Secretaries of State for India, should be remembered by the first journal in the world only as having acquired considerable literary reputation as the author of a work on Cabul. Here, too, the news of the death of Elphinstone was received with strange apathy, and at least from the younger members of our society only called forth a remark of astonishment that he should have lived so long. But it behoves us to be more chary of the memory of the best of our sons, since in Europe their recollection soon fades. Therefore we shall not suffer the death of Elphinstone to pass unrecorded, nor shall we content ourselves with a simple statement of the fact, for it would ill become us, amongst whom he lived and for whom he labored, to follow him to the grave without a single mark of affection or token of esteem.

Elphinstone entered the Bengal Civil Service at the early age of eighteen, and being a young man of great promise, was shortly after attached to the Court of the Peshwah, where he filled a post of great responsibility, and, for so young a man, of considerable emolument. Here it was his good fortune to attract the notice of Major-General Wellesley, who employed him in various important services, and particularly in negotiating treaties with an intriguing vakcel of Scindiah's, to whom Wellington afterwards laughingly said, Prince Talleyrand was a joke, and that intriguing Minister Ragojee Bhonslah. He was present at the battle of Assaye, and rode close to Wellington during the whole of the engagement. The experience

he thus acquired enabled him to assist with his counsel, Colonel Barr, who ostensibly commanded at Kirkee. As, however, the gallant Colonel was suffering throughout the action from a severe attack of paralysis, there can be but little doubt that to Elphinstone we owe the victory. So, indeed, thought the Ministry of the day and the authorities in India, and to him, with the rest of the troops engaged, was allotted a medal. We have here an instance of that versatility of genius for which all Englishmen in India had been so widely and so justly famed. Soon after Mr. Elphinstone was deputed to settle the annexed territories of the Peshwah, and this task he accomplished with such justice and moderation as won the respect of the natives, and in after times caused so much employment to the Enam Commissioners of Western India to undo. In 1820 Mr. Elphinstone was created Governor of Bombay, and won by his affability and good sense the esteem of all who came in contact with him. Bishop Heber, a thorough man of the world, and who had a keen perception of the gentleman, though he was too simple-minded to understand the small trickeries and treacheries of many of the natives of India with whom he sometimes came in contact, thus speaks of Mr. Elphinstone :—

I could not leave Bombay without regret. I had enjoyed in the unremitting kindness, the splendid hospitality, and agreeable conversation of Mr. Elphinstone, the greatest pleasure of the kind which I have ever enjoyed either in India or Europe. Mr. Elphinstone is in every respect an extraordinary man, possessing great activity of body and mind, remarkable talent for and application to public business, a love of literature and a degree of almost universal information such as I have met with in no other person similarly situated, and manners and conversation of the most amiable and interesting character. While he has seen more of India and the adjoining countries than any man now living, and has been engaged in active, political, and sometimes military duties since the age of eighteen, he has found time not only to cultivate the languages of Hindostan and Persia, but to preserve and extend his acquaintance with the Greek and Latin classics, with the French and Italian, with all the elder and more distinguished English writers, and with the current and popular literature of the day, both in poetry, history, politics, and political economy. With these remarkable accomplishments, and, notwithstanding a temperance amounting to rigid abstinence, he is fond of society; and it is a common subject of surprise with his friends at what hours of the day or night he finds time for the acquisition of knowledge. His policy, so far as India is concerned, appeared to me peculiarly wise and liberal, and he is evidently attached to and thinks well of the country and its inhabitants. His public measures in their general tendency evince a wish to improve their present condition. No Government in India pays so much attention to schools and public institutions for education. In none are the taxes lighter, and in the administration of justice to the natives in their own language, in the establishment of punchayets, in the degree in which he employs the native in official situations, and the countenance and

familiarity which he extends to all the natives of rank who approach him, he seems to have reduced to practice almost all the reforms which had struck me as most required in the system of government pursued in those provinces of our Eastern Empire which I had previously visited. His popularity (though to such a feeling there may be individual exceptions) appears little less remarkable than his talents and acquirements; and I was struck by the remark I once heard, that all other public men had their enemies and their friends, their admirers and their aspersers; but that of Mr. Elphinstone everybody spoke highly. Of his munificence (for his liberality amounts to this) I had heard much, and knew some instances myself. With regard to the free press I was curious to know the motives of apprehension which induced Mr. Elphinstone to be so decidedly opposed to it in this country. In discussing the topic, he was always open and candid, acknowledged that the dangers ascribed to a free press in India had been exaggerated, but spoke of the exceeding inconvenience, and even danger, which arose from the disunion and dissension which political discussion produced among the European officers at the different stations, the embarrassment occasioned to Government by the exposure and canvass of all their measures by the *Lentuh* and *Gracchi* of a newspaper, and his preference of decided and vigorous to half measures where any restrictive measures at all were necessary. I confess that his opinion and experience are the strongest presumptions which I have yet met with in favor of the censorship. A charge has been brought against Mr. Elphinstone by the indiscreet zeal of an amiable but not well judging man, the "Field Officer of Cavalry," who published his Indian travels, that "he is devoid of religion, and blinded to all spiritual truth." I can only say that I saw no reason to think so. On the contrary, after this character, which I had read of him, I was most agreeably surprised to find that his conduct and conversation, so far as I could learn, had been always moral and decorous; that he was regular in his attendance on public worship, and not only well-informed on religious topics, but well pleased and forward to discuss them; that his views appeared to me, on all essential subjects, doctrinally correct, and his feelings serious and deferential; and that he was not only inclined to do, but actually did more for the encouragement of Christianity and the suppression or diminution of *Suttees* than any other Indian Governor has ventured on. That he may have differed in some respects from the peculiar views of the author in question I can easily believe, though he could hardly know himself in what this difference consisted, since I am assured that he had taken his opinion second-hand, and not from anything which Mr. Elphinstone had either said or done. But I have been unable to refrain from giving this slight and imperfect account of the character of Mr. Elphinstone as it appeared to me, since I should be sorry to have it thought that one of the ablest and most amiable men I ever met with was either a profligate or an unbeliever.

Again, speaking of Bombay, Heber says:—

Its main advantage, however, is the society of Mr. Elphinstone, one of the ablest and most gentlemanly men I have ever known, and possessing a degree of popularity and personal influence, as well as an intimate knowledge of every person and thing within the Government, which I never saw before, except perhaps in the Duke of Richelieu at Odessa. This side of the Peninsula is also indebted to Mr. Elphinstone for some very important and efficient improvements in the administration of justice, and who, both in amiable temper and manners, extensive and various information, acute good sense, energy, and application to business, is one of the most extraordinary men that I have fallen in with.

We find many other affectionate notices of Mr. Elphinstone scattered throughout the literature of the day, but we think with Mr. Warden, who, during the time that Mr. Elphinstone was Governor of Bombay, was Under-Secretary to this Government, and has written a very good letter in memory of his friend and patron, that the notice he has given is too characteristic to be overlooked.

As Governor of Bombay, Mr. Elphinstone was particularly anxious to promote the education of the natives of India, and the Elphinstone College, raised by voluntary subscriptions, shows not only the respect in which the Governor was held by the natives of Western India, but that they sincerely appreciated his efforts. Mr. Elphinstone was also keenly sensitive to the necessity of giving our subjects in India a simple mode of legal procedure, and the Elphinstone Code bears witness to the success of his labors in this direction. Mr. Elphinstone of course could not do all he would, for in this country error maintains a long, and sometimes not unsuccessful, fight with truth. Indeed, we believe, that if any man were to attempt to cut to the root of abuses in India, to promulgate a code of law, to reform the administration, bring the waste lands into cultivation, propagate modern ideas, make roads, canals and railways, encourage manufactures, and give freedom to commerce, in short, were to attempt to do all that it is designed, as rulers, we should effect, and for which the Papal States, according to M. About, so ardently longed, there would be a rebellion in a fortnight. So infinitely more desirous of improvement is the worst governed State in Europe than the best in Asia.

From the Governorship of Bombay Mr. Elphinstone retired into private life, and dedicated himself to literary employment. Of the first of his labors, the best is decidedly the *History of India*, of which we hope soon to have a new edition. It is a work of considerable research, and no Indian library is complete without it. In his retirement Mr. Elphinstone successively refused the Governorship of Canada, the Governor-Generalship of India, and the Order of the Bath, with a seat in the Privy Council. It was from no pusillanimous dread that Mr. Elphinstone retired from public life, nor from any inglorious love of ease, but it was his settled conviction that no good man should desire office for its own sake, and so long as he saw that his country did not imperatively demand his services, he was content to remain in obscurity. But his advice and counsel were ever at the service of his friends. Fortunately we have seen a letter written by an acquaintance of Mr. Elphinstone's

shortly after the death of the latter, and we are thus enabled positively to state in what direction Mr. Elphinstone's advice tended, and what his opinions really were.

Privately he was a little of a Bohemian, if our readers know the meaning of that term. He was pleased sometimes to shock the superficial commonplace moralities of common minds, who are good in their lives and sound in their doctrines, merely, because they have no temptation to be otherwise. A correspondent of the *Times* affirms that, on one occasion, he professed a partiality for Pontius Pilate, by which confession we suppose Mr. Elphinstone meant to assert that it was the duty of a Governor to go all lengths to preserve the peace. A wretched sentiment, and one that has broken the hearts of many of our best and most promising Indian Officers. Indeed, we have no toleration for the word "Political Expediency," and the late Mr. Elphinstone ever appears to us in his most unamiable light when he advocates that hateful doctrine. Otherwise his opinions were sound, and we believe have been in a great measure adopted by Sir Charles Wood.

He held the gradual liberation of all lands from Government rent tenure, and the conversion of all into fee simple; he considered that the Government of India should adopt a policy by which they might gradually and eventually withdraw from the relation with their subjects of landlord to tenant, and should resort to other methods of taxation. With regard to legal matters Mr. Elphinstone was of opinion that justice should not be administered by men who had never studied any system of law whatever, and was opposed to the multiplication of forms in judicial procedure by men unqualified by legal practice and experience to frame them. He thought any attempt to correct erroneous judgments by Appellate Courts to be useless, "where all are equally competent and equally ignorant." He considered that a "code of substantive law was equally wanted with one of procedure," and that schools of law should be established, who should alone convey the title to engage in legal practice. Barristers from England would, as a matter of course, be permitted to practise after a due acquirement of the language of the Courts, but not untrained Civilians. It is singular that Sir Charles Trevelyan holds, at least with regard to legal reform, almost the same views. With regard to taxation we suppose that Mr. Elphinstone's views are far too advanced for any but settlers, who are daily harassed and incommoded by dishonest agents, and a constant dread, lest the labor of years should be swept away by an accidental omission to pay the land revenue, or by the pique or fancy of some incompetent official.

And here shall we sum up the public career of Mr. Elphinstone? The man who ceases to strive in the current of human affairs must be content to be whirled into some quiet rush and be forgotten. Was Mr. Elphinstone successful? Each one of our readers must decide that question for himself. If a public man's success consists in banquets or the numbers of journals that espouse his cause, if it consists in the thousands that throng to hear him speak and hang upon his every word, if it consists in the multitude of friends that surround his board, or in the thousands that are acquainted with his name, then we must consider Mr. Elphinstone to have been eminently unsuccessful, for, when all were within his grasp, he voluntarily retired from the contest. But if we consider success to consist in work done and toil endured, then Mr. Elphinstone may be considered as one of the most successful men of modern days. It is an old Italian proverb, that the Arno seldom swells without it first grows muddy. Of all the rulers we have given to India we scarcely recollect one who has not retired from office with perfectly clean hands. It would be an insult to our public men, despite the late proclamation of the Viceroy, to record the fact here, did we not desire to call attention to the great contentment of Mr. Elphinstone. His personalty has recently been sworn under thirty thousand pounds! His continued refusal of all public office and emolument is therefore the more to be admired; and sets an example to the natives of Bombay, who professed to admire his character and reverence his name, which they would do well to follow. But we do not merely, from Mr. Elphinstone's public life, draw maxims for others; from his career our public men may learn that, to be respected in India and popular amongst the governed, needs only the virtue of strict impartial justice. Union Clubs and Bethune Societies were not known in Mr. Elphinstone's time, and we are afraid that, had he now lived in Calcutta, he would have been thought by imitators of native ideas infinitely behind the age. We have not touched upon the various talents possessed by Mr. Elphinstone. They are acquired by patient study, and are within the reach of all our readers, if they will but use the means. In truth, many Anglo-Indians have acquired a European reputation both for their scholarship and scientific acquirements. The electric telegraph is not the only invention we owe to a Madras Officer. But during the last centenary of our rule not a single native out of the immense population of one hundred and seventy millions, has added a single fraction to science. It is from the lives of such men as Elphinstone that we see some other qualities, besides native acuteness, are requisite to success in life.



And now he is gone ! The retired life he led of late will not cause him to be missed in the busy haunts of men. But his friends will not soon forget his gentle mien and kind persuasive tones, the advice they could at all times so readily procure, and the affability with which they were always greeted. These perhaps are homely qualities, but they are not usually combined with the disinterestedness that could refuse the most splendid honor ; nor with the fund of information that could excite the astonishment of so well read a man as Bishop Heber.

- ART. IV.—1. *First and Second Reports of Her Majesty's Commissioners appointed to consider the reform of the Judicial Establishments, Judicial Procedure, and Laws of India.* 1856.
2. *The Administration of Justice in British India.* By WILLIAM H. MORLEY. London. 1858.
3. *The Procedure of the Civil Courts of the East India Company in the Presidency of Fort William.* By WILLIAM MACPHERSON. 4th Edition. Calcutta. 1859.
4. *A Digest of the Criminal Law of the Presidency of Fort William.* By F. L. BEAUFORT, Bengal Civil Service. 2nd Edition. Calcutta. 1857.
5. *Acts and Proceedings of the Legislative Council of India.* 1859.

THE Reform of the Judicial Establishments of India is a subject upon which the attention of the British Parliament has been long bestowed—in that desultory manner, it is true, which alone can be expected where the matters to be considered do not concern the interests of any large or influential portion of the constituency represented in the House of Commons, nor happen to afford a convenient pretext for an assault by one political party upon another. It may indeed be doubted whether India has not been indebted for that degree of notice which Parliament actually has bestowed upon her Courts and Laws rather to the cupidity of the members of the legal profession in England, hankering after the practice and appointments, which it is supposed those Courts might afford, than to any more worthy motive. Should this, however, be admitted to be the case, we need only recognise in it an illustration of the rule, that self-interest is a far more practical reformer than pure philanthropy: and the fact remains as before, that India Law Reform has so long been an idea, that the period now approaches when those who are accustomed to watch the progress of Parliamentary gestation look for a result.

As far back as 1833, when, to use a familiar phrase, “the renewal of the Company’s Charter” was considered by Parliament, provision was made by Statute for the appointment of Commissioners, to be styled “Indian Law Commissioners,” who “should enquire ‘into and report upon the Jurisdiction, Powers, and Rules of the ‘existing Courts of Justice and Police Establishments in India, ‘and the territories in the possession and under the Government ‘of the East India Company, and all existing forms of Judicial ‘Procedure, and as to the nature and operation of all laws,

‘ whether civil or criminal, written or customary, prevailing and  
 ‘ in force in any part of the said territories, suggesting such  
 ‘ alterations as might, in their opinion, be beneficially made in  
 ‘ such Courts and in the forms of Judicial Procedure and Laws :  
 ‘ due regard being had to the distinction of castes, difference of  
 ‘ religion and manners, and opinions prevailing among different  
 ‘ races and in different parts of the said territories.”

Again, in 1853, when it became incumbent on the English Government to make fresh provision for the Government of India, an Act was passed, by which—after reciting that the Indian Law Commissioners, from time to time appointed under the above-mentioned Act of 1833, had, in a series of reports, recommended extensive alterations in the Judicial Establishments, Judicial Procedure and Laws established and in force in India, and had set forth in detail the provisions which they had proposed to be established by law for giving effect to certain of their recommendations, and such reports had been transmitted from time to time to the Court of Directors, but on the greater part of such reports and recommendations no final decision had been made—it was enacted that Her Majesty might, by Commission under the Royal Sign Manual, appoint persons to examine and consider the recommendations of the said Indian Law Commissioners, and the enactments proposed by them for the Reform of the Judicial Establishments, Judicial Procedure and Laws of India, and such other matters in relation to the Reform of the said Judicial Establishments, Judicial Procedure and Laws as might, with the sanction of the Commissioners for the affairs of India, be referred to them.

Towards the end of the year 1855, the Commissioners appointed by Her Majesty for the purpose just mentioned—consisting of Sir John Romilly, Master of the Rolls ; Sir John Jervis, Chief Justice of the Court of Common Pleas ; Sir Edward Ryan, formerly Chief Justice of the Supreme Court at Calcutta ; Mr. Cameron, formerly Legislative Member of Council at Calcutta ; and Messrs. John Macpherson, Macleod and Thomas Flower Ellis, late Members of the Madras Civil Service ; Mr. Robert Lowe, a Barrister ; and Mr. Frederick Millet, a Member of the original Indian Law Commission—made their first report, in which they submitted “ a plan for the amalgamation of the Supreme Court of Judicature at Fort William  
 ‘ in Bengal with the Sudder Dewanny and Nizamut Adawlut,  
 ‘ as well as a simple and uniform Code of Civil and Criminal  
 ‘ Procedure, applicable both to the High Court to be so formed,  
 ‘ and to all inferior Courts within the limits of its jurisdiction.”

This “ plan ” has not as yet been laid upon the legislative anvil, and from the fact of the Indian Legislative

Council having passed early last year a new and elaborate Code of Procedure for "the Courts of Civil Judicature *not* established by Royal Charter," we may conjecture that the intention was at one time to abandon the idea of amalgamation altogether, or, at any rate, to allow it to sleep the sleep from which *Macaulay's Penal Code* has not yet been awaked. Since that time, however, Her Most Gracious Majesty has assumed in person the Government of her Indian Territories, the Courts formerly of the Company are now the Courts of the Crown; the barm of innovation is every where pervading the dough of Indian affairs, and there seems every probability that, as the fermentation proceeds, the scheme of amalgamation of Courts will again swell up to the surface, and claim to be kneaded into the form of a statute.\*

To prepare our readers in some measure for the discussion which will then ensue is our purpose in the present article. With the scheme itself, we shall not at present deal; confining ourselves in the following pages to what we hope may be regarded as an useful preliminary, the making our readers somewhat better acquainted with the courts, as they now exist, which it is the object of the scheme to supersede or remodel, noticing, as we proceed, some of the defects which present themselves to the observer who examines the working of the present system of judicature.

As we write for the English as well as Indian reader, the latter must excuse us when, in the following pages, there may occur explanations of words or phrases with which he is already sufficiently familiar. We wish it also to be understood that when we proceed to describe the constitution, jurisdiction, law and procedure of the several courts mentioned in this article, we do not pretend to minute accuracy, but shall content ourselves with a general description of each.

"The Supreme Court of Judicature at Fort William in Bengal" is a Court of Civil and Criminal jurisdiction for all inhabitants of the Town of Calcutta. Persons born in Great Britain and Ireland and their descendants are also subject to the jurisdiction of the Supreme Court, if residents anywhere within the Presidency of Fort William, which embraces as well the provinces subject to the Lieutenant-Governor of Bengal as those

\* The Select Committee of the House of Commons appointed to enquire into Colonisation and Settlement in India, say in their Report published in August last:—"The judicial system of India will never be placed on a sound and satisfactory basis till all the courts are organised into one harmonious whole, and until by an amalgamation of the Supreme and Sudder Courts, the highest and most learned tribunals in the land shall be courts of appeal to the whole country and serve as a pattern and example to inferior courts administering law under the same Procedure."

subject to the Lieutenant-Governor of the North-Western Provinces and the Punjaub. The Supreme Court has also criminal jurisdiction over all British subjects for crimes committed at any place within the limits of the East India Company's Charter, or in any of the territories of any Native Prince or State. Persons who are at the time of action brought, or who have been, in the employ of Government or of a British subject, are liable to the civil jurisdiction of the Supreme Court in actions for wrongs or trespasses and in criminal prosecutions. Natives of India also, wheresoever resident within the Presidency of Fort William, may, by contract with a British subject, submit themselves to the civil jurisdiction of the Supreme Court in respect of any dispute arising out of that contract, if the cause of action exceed 500 rupees.

The Justices of the Peace for the Town of Calcutta are subordinate to the Supreme Court; as are also such Officers of the Indian Government as are appointed Justices of the Peace within the provinces, for the purpose of committing British-born subjects for trial before the Supreme Court, in respect of all acts done by them as such Justices.

Subordinate to the Supreme Court also is a Court of Small Causes for the Town of Calcutta, whose jurisdiction is limited to the cognisance of suits in which the matter in dispute is not of greater value than 500 rupees.

The Supreme Court exercises jurisdiction as well as a Court of Common Law as of Equity, as an Ecclesiastical Court, as an Admiralty Court, and as a Court of Oyer and Terminer—being said to sit on the Common Law *side*, the Equity *side*, the Ecclesiastical *side*, the Admiralty *side*, or the Crown *side*, according to the jurisdiction which it is exercising in each case. The procedure on these different *sides* is similar to the procedure of the corresponding Courts in England, with the important exception, that on the trial of all civil causes the Judges deal with the facts as well as the law without the assistance of any Jury. New rules are passed from time to time by the Judges, introducing, as far as circumstances will admit, changes corresponding with those which take place in procedure in England.

The law administered by the Supreme Court is as follows:—

*First*.—Actions regarding inheritance and succession to lands and personal property among Hindoos, and all matters of contract in which both parties are Hindoos, are determined by the laws and usages of Hindoos.

*Second*.—Actions of the same kind, in which both parties are Mahomedans, are determined by the laws and usages of Mahomedans.

*Third.*—Actions of the same kind, where the defendant only is a Mahomedan or Hindoo, are determined by the laws and usages of the defendant.

In other cases the Court administers :—

*First.*—The Common and Statute Law of England as it prevailed in 1726, so far as it has not been subsequently altered by Statute especially extending to India, or by the Acts of the Legislative Council of India.

*Second.*—The Statute Law expressly extending to India, which has been enacted since 1726, and has not been since repealed.

*Third.*—The Civil Law, as it obtains in the Ecclesiastical and Admiralty Courts of England.

*Fourth.*—Regulation Law, as contained in the Regulations passed by the Governor-General in Council previously to the 3rd and 4th Will. IV., c. 85, and registered in the Supreme Court.

*Fifth.*—The Law contained in Acts passed by the Legislative Council of India, as constituted by the 3rd and 4th Will. IV., c. 85, and by the 16th and 17th Vic., c. 95.

The Supreme Court is presided over by a Chief Justice and two Puisne Judges, who are Barristers of England or Ireland of not less than five years' standing.\*

The general qualification for an Advocate of the Supreme Court is that he shall produce a Certificate of having been called to the Bar in England or Ireland, or of being entitled to practise as an Advocate in the principal Courts of Scotland.

The qualification for admission as an Attorney is that the applicant has been admitted an Attorney of one of Her Majesty's Principal Courts of Record in England or Ireland, or a Writer to the Signet in Scotland, or a Member of the Society of Solicitors practising before the Court of Session there, or that he has served a regular clerkship of five years under a contract in writing to some Attorney practising in the Supreme Court, or that he has been a principal clerk to one of the Judges.

The number of practising Advocates on the roll of the Court at the present time is twenty-two, and the number of practising Attorneys on the roll was, when the last Directory was published, sixty-three.

The Supreme Court was established by Royal Charter, under the authority of an Act of Parliament, in 1774, in supercession of the then existing Mayor's Court, the Judges of which were not required to be, and in fact, never were, brought up to the law.

\* The Chief Justice receives £8,000 a year, and ranks in India next after the Governor-General. The Puisne Judges receive £6,000 a year each, and they rank with the Members of Council according to seniority.

It has always possessed the confidence of the public, both British-born and Native, as is proved by the number of cases in which the foundation of its jurisdiction is the voluntary submission of natives thereto by contract. It is, however, a very expensive tribunal ; and it would be a popular measure which should enable each Judge of the Supreme Court to sit as a Judge of the Court of Small Causes for the trial of all suits in which the amount in dispute might exceed 500 rupees and not exceed 1,000 rupees.

An appeal lies in civil causes from the decision of the Supreme Court to the Queen in Council in cases where the amount in dispute exceeds 10,000 rupees.

We now turn our attention to the courts existing in the Bengal Presidency other than those constituted by Royal Charter, and which have hitherto, by way of distinction, been called Company's Courts, or sometimes—from their being situated in the region called by the inhabitants of Calcutta the *Mofussil*, which lies beyond the " ditch " which girdles the City of Palaces—the *Mofussil Courts*.

The *Sudder Dewanny Adawlut* and the *Sudder Nizamut Adawlut*—which are located at Alipore, at the distance of about 2 miles from Government House, Calcutta, so as to be just beyond the ditch aforesaid—are presided over by one and the same Bench of Judges, and constitute respectively, the Supreme, Civil and Criminal Courts of Appeal from the Courts other than those constituted by Royal Charter in the twenty-six *zillahs*, or as in England they would be called counties, of the Bengal Presidency proper.

A further appeal from the decisions of the *Sudder Dewanny Adawlut* lies to Her Majesty in Council in cases when the amount in dispute is 10,000 rupees or upwards.

The *Sudder Dewanny* and *Sudder Nizamut Courts* originally consisted of the Governor-General and the Members of Council ; but since 1801, they have been presided over by Judges selected from the Covenanted servants of the Government.

There are five ordinary Judges of the *Sudder Courts*, the two senior of whom receive salaries of 4,350 rupees per month each, and the three junior salaries of 4,166 rupees 10 annas and 8 pie per month each. Besides these there are four or five extra Judges, who nominally hold appointments as *Zillah Judges*, but sit in the *Sudder*, receiving in addition to the *Zillah Judge's* salary of 2,500 rupees per month, a deputation allowance of 616 rupees 10 annas and 8 pie per month.

The appointments to the *Sudder Bench* are almost invariably made from among the *Zillah Judges*. \*

The system of courts subordinate to the two Courts of Appeal just mentioned next passes under our notice—the Civil Courts claiming the precedence.

Seven of the above-mentioned twenty-six zillahs of the Bengal Presidency, that is to say, the zillahs of Behar, Chittagong, Hooghly, Patna, Sarun, Tirhoot, and the zillah known as that of the Twenty-four Pergunnahs, have, on account of their size and importance, been, for the purposes of the administration of justice, sub-divided into two; each division having its separate system of courts; but throughout this article each local circle of courts, whether it embrace a zillah proper or a division merely, will be called a zillah, of which, consequently, there are subordinate to the Supreme Courts of Appeal at Alipore thirty-three in number.

The head civil judicial officer in each zillah is the Judge, so called *par-excellence*. Thus in Behar, which, as above noticed, has been sub-divided, there are two head civil judicial officers, each independent of the other, and presiding over his own circle of subordinate courts, the official title of each of these functionaries being respectively Judge of Behar and Additional Judge of Behar.

Subordinate to the Judge of the zillah, the Principal Sudder Ameen, Sudder Ameen, and the Moonsiffs, whom we have named in their order of rank, exercise civil jurisdiction, each holding a court of his own.

We proceed to examine the powers of each; now commencing *inverso ordine* with the lowest grade.

Suits may be brought in the Moonsiff's Court, when the value of the thing claimed, whether it be realty or personalty, or the amount of damages sought to be recovered, does not exceed 300 company's rupees, or £30 sterling.

From the Moonsiff's decision a "*regular appeal*" lies as a matter of right to the Zillah Judge.

From the decision which the Judge may pass on such regular appeal, a "*special appeal*" lies to the Sudder Dewanny Court on any of the following grounds, namely:—

*First*.—On the ground that the decision has failed to determine all material points in difference in the cause, or has determined the same or any of them contrary to law, or usage having the force of law.

*Second*.—On the ground of a misconstruction of any document.

*Third*.—On the ground of any ambiguity in the decision affecting the merits.

*Fourth*.—On the ground of any substantial error or defect in procedure, or in the investigation of the case; provided such error or defect be apparent on the record, and shall have



produced, or be likely to have produced, any error or defect in the decision of the case upon the merits; but not upon the ground that the decision of any question of fact is contrary to, or not warranted by, the evidence duly taken in the cause, or any probability deduced from the record.

A "*summary appeal*" also lies to the Zillah Judge from any order or decree of a Moonsiff, whereby he may have refused to admit any suit regularly cognisable by him, or may have dismissed any suit instituted before him on the ground of delay, informality, or other default, without an investigation of the merits of the case.

There are several Moonsiffs in each zillah, each having under him a separate district. They are divided into two grades: those in the first receiving salaries of 150 rupees a month, or about £180 per annum; and those in the second grade 100 rupees a month, or about £120 per annum.

At the commencement of last year there were thirty-two Moonsiffs of the first grade, and 140 Moonsiffs of the second grade attached to the Courts of which we are treating. Of these six were Christians, seventy-four were Mahomedans, and the rest Hindoos.

Next in rank above the Moonsiff is the Sudder Ameen. His jurisdiction resembles that of the Moonsiff, except that its limit is 1,000 instead of 300 rupees; and all civil suits between these limits ought to be instituted in his Court.

The rules which apply as to regular, special, and summary appeals from his Court are the same as those which regulate similar appeals from the Court of the Moonsiff.

His local jurisdiction is commensurate in extent with that of the Civil Judge to whom he is subordinate.

The salary of a Sudder Ameen is 250 rupees a month, or about £300 a year.

At the commencement of last year the number of Sudder Ameen attached to the Courts whereof we are treating was twenty-eight, of whom three were Christians, eight Mahomedans, and seventeen Hindoos.

The judicial officer next in rank above the Sudder Ameen is the Principal Sudder Ameen. His ordinary jurisdiction has no limit in amount or value. Although the Zillah Judge has concurrent primary jurisdiction in all suits of whatever value, yet suits are not usually or properly brought before him in the first instance, except under peculiar circumstances. The office of Principal Sudder Ameen is therefore one of the highest importance, his being the tribunal in which cases involving enormous amounts of property are ordinarily disposed of in the first instance.

A regular appeal lies of right from the decision of the Principal Sudder Ameen to the Zillah Judge, if the decision be in a suit below 5,000 rupees in estimated value; if in a suit above that amount, to the Sudder Dewanny Adawlut.

A special appeal lies to the Sudder Court from the decision of the Judge passed on regular appeal from the Principal Sudder Ameen, for the same causes and under the same rules as are above stated, as regulating special appeals from decisions on regular appeal from the Moonsiff or Sudder Ameen.

A summary appeal also lies from the order of the Principal Sudder Ameen under the same rules as regulate summary appeals from the order of a Moonsiff, being preferred to the Zillah Judge or to the Sudder Court, according as the suit in which the order has been made is below or above the value of 5,000 rupees.

The local limits of the Principal Sudder Ameen's jurisdiction are commensurate with those of the Civil Judge to whom he is subordinate.

Principal Sudder Ameens are of two grades, receiving salaries of 600 rupees and 400 rupees per month respectively.

At the commencement of last year the number of Principal Sudder Ameens in the Courts which form the subject of our article was eight of the first grade and twenty-six of the second. Of those of the first grade three were Christians, three Mahomedans, and two Hindoos. Of those of the second grade five were Christians, nine Mahomedans, and twelve Hindoos.

The Judge, as has been before stated, is the highest judicial functionary in each zillah.

He has the power, whenever he may see sufficient reason for so doing, to withdraw any suit from the Principal Sudder Ameen's or Sudder Ameen's Court in which it may have been instituted, and to try it himself: but in practice this power is rarely exercised, and, consequently, his jurisdiction in civil suits is, unless in exceptional cases, appellate only.

When the Zillah Judge decides a case as a court of primary jurisdiction, a regular appeal lies from him to the Sudder Dewanny Adawlut as a matter of right.

The Zillah Judge is invariably a Member of the Covenanted Civil Service.

The mode of procedure of all the Civil Courts is the same. Until the middle of last year it was as follows:—The suit was commenced by a plaint being filed, upon which a summons was issued, calling upon the defendant to appear in person or by a pleader, called a Vakeel, of the court; an answer was filed by the defendant, to which the plaintiff replied. A rejoinder was in many cases filed, but the pleadings might conclude without it.

In the pleadings each party used to state his case at large, and was not bound to follow any prescribed form. The pleadings were, therefore, as might be expected, discursive, argumentative, and often exceedingly lengthy. As soon as they were closed, the Judge held a proceeding at which he settled the issues ; that is to say, after hearing the pleadings on either side read to him, he considered and recorded the points to be established by either party. The parties then filed a list of their witnesses and documents, after which a day was appointed for the final hearing of the cause, when the parties or their Vakeels attended with their witnesses, who are examined and cross-examined *vivâ voce* in open court, in the presence and hearing and under the personal superintendence of the Judge, who, after hearing them, decided the case both upon the law and facts without the assistance of a Jury.

In March of last year, an Act was passed by the Indian Legislature, and came into operation on the 1st of July last, whose object was to simplify the Procedure of the Civil Courts in the Mofussil.

This Act directs that all suits shall be commenced by a plaint, after the filing of which a summons issues, calling upon the defendant to appear and answer the claim on a specified day in person, or by a pleader of the court duly instructed and able to answer all questions relating to the suit, or by a pleader accompanied by some other person able to answer all such questions. The summons also requires the defendant to produce all written documents, of which the plaintiff demands inspection, or upon which the defendant intends to rely in support of his defence.

The plaint must be verified by having a declaration at the foot, subscribed by the plaintiff and his pleader, if any, "that what is stated therein is true to the best of declarant's information and belief : " but if the plaintiff, by reason of absence or for other good cause, be unable to subscribe and verify the plaint, the court may allow the plaint to be subscribed and verified on behalf of the plaintiff by any person whom the court may consider competent to make the verification. With his plaint the plaintiff must produce, to be marked by the court, such written documents as he relies on as evidence in support of his claim ; and no documents not so produced can be received at any subsequent stage of the cause without the special sanction of the court.

At the return day of the summons the parties may tender written statements of their respective cases ; and no written statements can be filed at a subsequent stage unless it be called for by the court itself. These statements must be verified in

the same manner as the plaint, and are to be by way of simple narrative, not argumentative, and as brief as the nature of the case will permit, the court having the power of rejecting the statement, if it appear to be argumentative or unnecessarily prolix, or that it contains matter irrelevant to the suit. On the return day of the summons the court examines orally, upon oath, the parties or their respective representatives who may be sent to answer all material questions relative to the suit, and should such representative be unable to answer any material question, the further hearing of the cause may be postponed for the attendance of the principal. The exhibits produced by the parties are also examined by the court, which then frames and records the issues of law and fact on which the right decision of the case appears to depend: in order to enable it to do which it may require the attendance of further witnesses, and the production of documents not before it. When the issues have been settled, a time is fixed for the final hearing of the cause, which is done upon oral examination of the witnesses in open court, and the Judge arrives at his decision without the assistance of a Jury.

The above Act has not been in force for a sufficient time to enable us to judge whether or not its practical working will be to diminish the bulk of the enormous *nutthee*, or file of proceedings, which usually grows up during the course of a Mofussil suit, and to bring matters to a hearing more speedily than heretofore. To make it effective for such good purpose strenuous and steady must be the exertions of the Judges against the fraud and obstinacy of Indian litigants, whose utmost ingenuity will be called forth to render it a dead letter.

With regard to law, the courts now under notice are to be guided in their decisions:—1<sup>st</sup>, by the Regulations of Government and Acts of the Indian Legislature, if there be any such applicable to the case; 2<sup>nd</sup>, by Hindoo or Mahomedan law, as the case may be, in all suits regarding succession, inheritance, marriage, caste, and all religious usages and institutions; and, 3<sup>rd</sup>, in cases for which no specific rule may exist, the Judges are to act according to “justice, equity, and good conscience.”

“In practice”—say the Commissioners in the appendix to their first Report—“the Mahomedan law has been applied to a variety of cases, which may be arranged under the following heads, *viz.* inheritance, sale, pre-emption, gift, wills, marriage, dower, divorce, parentage, guardians and minority, slavery, endowments, debts and securities, claims and judicial matters. And in cases where the parties are Hindoos, family customs and the customs of particular parts of the country are in practice commonly recognised in modification of the general law. In matters of dealing between British subjects, the

‘English Judges are in the practice of deciding as they best can according to English law, occasionally taking the opinion of the Advocate General in doubtful cases.’

There does not exist in India beyond the limits of the Presidency towns any *lex loci*, any substantive law for those classes of persons who have not, like the Hindoos and Mahomedans, special laws of their own, whose validity has been recognised by the British Government. In the absence of such, “justice, equity, and good conscience” offer themselves but as vague guides to the Mofussil Judges, to whom much blame is in consequence imputed without just cause for decisions which it is hard to reconcile one with another.

Turning from our view of the Civil Courts, we now proceed to take an equally rapid glance at the Courts of Criminal Jurisdiction subordinate to the Sudder Nizamut Adawlut: in doing which, we avail ourselves largely of the able summary to be found in the Appendix to the First Report of Her Majesty’s Commissioners appointed to consider the Reform of the Judicial Establishments, Judicial Procedure and Laws of India.

First of the Judge.—The Report informs us :—

The Session Judge is the head criminal authority in the zillah, and is the same person as the Civil Judge. In respect of his double functions, he is termed the Civil and Session Judge.

His jurisdiction is partly original and partly appellate. His original jurisdiction is restricted to persons committed by the Magistrate to take their trial at the Sessions. His appellate jurisdiction extends to all sentences and orders passed in judicial trials by the Magistrates or his subordinates, with some partial exceptions, as hereinafter more particularly mentioned.

The Magistrate is bound by law to commit for trial at the Sessions all persons (except as hereinafter mentioned,) charged with treason, murder, robbery, wilful fire raising, and counterfeiting the coin. He is also bound to commit for burglary, theft, the receiving or buying of stolen goods and property, and affrays under the aggravating circumstances which will be detailed hereafter, as constituting the exceptions which take these offences out of his own competence to punish. Forgery and perjury also belong to the exclusive jurisdiction of the Session Judge.

With regard to all other crimes and misdemeanors, the Magistrate has a discretion, and will commit them for trial by the Session Judge only when accompanied with such circumstances as render the punishment which he can inflict inadequate to the offence.

The appellate jurisdiction of the Session Judge extends to all convictions and original sentences by a Magistrate, or other officer exercising full magisterial powers in his zillah, and pronounced in a judicial trial; with the exception of the petty offences noticed on page 6, with respect to which, when punished by the Magistrate himself, instead of being referred to his subordinates, the order of the Magistrate is final.

The Judge holds his sessions for the zillah once a month.

The Sessions Judge was formerly on all trials assisted by the Mahomedan Law Officer attached to his Court; but he is

now empowered, at his option, to dispense with the presence of that Officer at any trial, and to avail himself of the assistance of respectable natives in either of the three following ways:—

*First*, by referring the suit or any point or points in the same to a punchayet of such persons, who must carry on their enquiries apart from the Court, and report the result in writing to the Court.

*Or, secondly*, by constituting two or more of such persons assessors or members of the Courts, with a view to the advantages derivable from their observations, particularly in the examination of witnesses. The opinion of each assessor is given separately and discussed, and may, at the instance of the Judge or either of the assessors, be recorded in writing in the suit.

*Or, thirdly*, by employing them more nearly as a Jury. They then attend during the trial, and may suggest, as it proceeds, such points of enquiry as occur to them.

When the accused is a person not professing the Mahomedan faith, he may require the Judge to proceed in one of the three methods above indicated.

The punchayet, assessors, or jury are, however, merely for the assistance of the Judge, in whose authority the decision of the case is exclusively vested.

When the Judge presides, assisted by the Mahomedan Law Officer, that officer is required, after the depositions have been taken to record the *fatwah* or decision of the Mahomedan law as applicable to the circumstances of the case, comprehending both the fact and the law; that is, whether the evidence be or be not sufficient, according to that law, to establish the guilt of the accused, and what degree of punishment the law assigns for the offence with which he is charged, supposing it to be proved. After the Judge has read the *fatwah*, if it appears to him consonant to natural justice and also conformable to Mahomedan law, he is to pass sentence in terms of the *fatwah*, except in cases where the sentence is one of death or of imprisonment for life. In all such cases the Judge transmits the sentence and proceedings to the Nizamut Court, and awaits its final sentence.

The Magistrate is the Criminal Judicial Officer next in rank to the Judge. There is usually one Magistrate in each zillah, but when the zillah is very large, a Joint-Magistrate is also appointed, who has a separate district assigned to him, and is independent of the Magistrate. His jurisdiction and powers of punishment are the same as those of the Magistrate.

The Magistrate and Joint-Magistrate are always members of the Covenanted Civil Service.

To the Magistrate or Joint-Magistrate several of the younger members of the Covenanted Civil Service are attached for the purpose of assisting him generally in the performance of his duties, and also of being themselves instructed in their duties. They are called Assistants to the Magistrate.

There are also in each zillah several Deputy Magistrates, who are not members of the Covenanted Service.

The Police of the zillah is under the immediate authority of the Magistrate; and the Assistants and Deputy Magistrates also take a part in the Police duties of the zillah.

The greater part of the Joint-Magistrates, Assistants, and Deputy Magistrates act also as Collectors and Deputy Collectors; the Magistrates themselves with few exceptions have been for many years and until very recently confined to magisterial and Police duties.

The following shows the distribution of the magisterial force in the Lower Provinces of Bengal at the commencement of last year.

Of the Covenanted Service there were

		<i>Salary per month.</i>		
1	Magistrate, Collector and Salt Agent of the Northern Division of Cuttack	... Rs.	2,333	5 4
1	Ditto Ditto Southern Division	... „	2,333	5 4
1	Ditto Ditto Central Division	... „	2,333	5 4
1	Magistrate of the 24-Pergunnahs, and Superintendent of the Alipore Jail	... „	2,333	5 4
1	Magistrate and Collector of Shahabad	... „	2,000	0 0
2	Ditto Ditto at Beerbhoom and Bhaugulpore,	each „	1,500	0 0
28	Magistrates	„ „	900	0 0
4	Joint-Magistrates and Deputy Collectors	„ „	1,500	0 0
4	Joint-Magistrates and Deputy Collectors	„ „	1,000	0 0
11	Joint-Magistrates and Deputy Collectors	„ „	700	0 0
15	Assistants to Magistrates and Collectors vested with the powers of Joint-Magistrates and Deputy Collectors	„ „	500	0 0
34	Assistants to Magistrates and Collectors	„ „	400	0 0

The Magistrates and Joint-Magistrates also receive, in addition to their salaries, a travelling allowance of five rupees a day when employed in the interior of their respective districts.

Of the Uncovenanted Service there were at the same time

5 Deputy Magistrates and Deputy Collectors of the first class, at 700 rupees each; of whom four were Christians and one Mahomedan.

- 8 Deputy Magistrates and Deputy Collectors of the second class, at 600 rupees each ; of whom five were Christians and three Hindoos.
- 14 Ditto ditto of the third class, at 500 rupees each ; of whom six were Christians, one a Mahomedan, and seven Hindoos.
- 5 Ditto ditto of the fourth class, at 450 rupees each ; of whom three were Christians, one a Mahomedan, and one a Hindoo.
- 15 Ditto ditto of the fourth class, at 400 rupees each ; of whom twelve were Christians, two Hindoos, and one a Mahomedan.
- 2 Ditto ditto of the fifth class, at 450 rupees each ; one being a Christian, and one a Mahomedan.
- 1 Ditto ditto of the fifth class, at 400 rupees, a Christian.
- 3 Ditto ditto of the fifth class, at 350 Rupees each ; of whom two were Mahomedans, and one a Hindoo.
- 21 Ditto ditto of the fifth class, at 300 rupees each ; of whom eleven were Christians, three Mahomedans, and seven Hindoos.
- 1 Ditto ditto of the sixth class, at 450 rupees, a Hindoo.
- 1 Ditto ditto of the sixth class, at 400 rupees, a Hindoo.
- 2 Ditto ditto of the sixth class, at 350 rupees, both Christians.
- 2 Ditto ditto of the sixth class, at 250 rupees ; one a Hindoo, and the other a Mahomedan.
- 21 Ditto ditto of the sixth class, at 200 rupees each ; of whom six were Christians, seven Mahomedans, and eight Hindoos.
- 46 Supernumeraries, at 200 rupees each ; of whom nineteen were Christians, six Mahomedans, and twenty-one Hindoos.

The Bengal Government is now trying the experiment of uniting the offices of Magistrate and Collector in the same person. This is, in fact, to revert to the system which prevailed previous to 1837, and had been gradually abandoned in all the districts of Bengal, with the exception of seven or eight. As no one acquainted with the Mofussil holds any other opinion than that the duties proper to the Magistrate of a zillah are more than any one man can efficiently perform, we do not imagine that the recent change can be of any long duration, and shall proceed with our description of the state of things which preceded its institution.

Of the judicial powers of the Magistrate and his subordinates, the Report already alluded to gives the following summary :—

*Judicial Powers of the Magistrate.*

The Magistrate has criminal jurisdiction over burglary, theft, the receiving or buying stolen goods and property, and affrays, under certain



exceptions; and also over convicts or prisoners who may effect their escape from a gaol or other place of confinement, or from the custody of their guards. The exceptions in the case of burglary are, where the offence has been accompanied with murder, or with an attempt to commit murder, or with wounding, burning, corporal injury, or other aggravating act of personal violence; or where the person charged has before been convicted of burglary, robbery, or other heinous crime, or is of notoriously bad character, or is charged with committing the offence while employed in the office of a watchman, guard, or police officer, or if the value of the property stolen exceeds the sum of 100 rupees; or whenever the Magistrate may be of opinion that there exist any circumstances of aggravation (though not of the nature above specified), such as to render the prisoner deserving of a more severe punishment than the Magistrates are competent to inflict. The exceptions in the case of theft are, where the offence has been accompanied with any of the aggravating circumstances above specified; or where the amount or value stolen exceeds the sum of 300 rupees. The exceptions in the case of receiving or buying of stolen goods are, where the person is charged with knowing, at the time of his purchasing or receiving the same, that such property had been obtained in the perpetration of robbery by open violence, or of theft, accompanied by any of the aggravating circumstances above mentioned; or where the amount or value of the property stolen exceeds 300 rupees. The exceptions in the case of affrays are where they are attended with homicide, severe wounding, or other aggravating circumstances.

In the excepted cases, it is the duty of the Magistrate to commit the person charged with any of the offences above mentioned for trial at the Sessions. But where the exceptions do not occur, the Magistrate is authorised to try them himself, and to punish them, if convicted, with any amount of punishment which he may deem adequate to the offence, not exceeding imprisonment for two years with hard labor, together with a further term of imprisonment for one year in lieu of corporal punishment, which has been abolished. In the case of affrays, his power of punishment is limited to one year's imprisonment, with or without hard labor and irons, and a fine of 200 rupees, commutable to imprisonment for another term not exceeding one year. He is also required to commute the labor to a fine not exceeding the same amount, but otherwise to be regulated with reference to the nature of the offence and the circumstances in life of the offender.

In cases of theft cognisable by the Magistrate, if the value of the stolen property exceed fifty Rupees, or if the person committing it shall have been before convicted of theft, burglary, robbery, or other heinous offence, or if the prisoner have committed the offence while employed as a watchman, guard, or police officer, or be a servant of the person from whom, or in the house from which the property may have been stolen, and also in all cases of cattle-stealing, the Magistrate ought to try the prisoners himself.

#### *Cases which the Magistrate may refer to his Subordinate.*

All cases of theft, other than those above specified, the Magistrate is authorised to refer for decision to his Assistant, or investigate them himself, as he may think proper.

The Magistrate is also competent to refer for trial to the Mahomedan Law Officer attached to the court of the Sessions Judge, or to the Principal Sudder Ameen, or to the Sudder Ameen, or Deputy Magistrate, all complaints or charges brought before him for petty offences, such as

abusive language, calumny, inconsiderable assaults, or affrays, and all charges of petty thefts, when unattended with aggravating circumstances.

Whenever a complaint of criminal nature is referred, as above mentioned, by a Magistrate, the order of reference should be recorded on his proceeding, with instructions, whether to submit the proceedings held upon the examination for the Magistrate's decision, or whether the decision on the charge is to be passed by the Assistant, or person to whom the reference is to be made, if it be such as he is authorised to determine under the Regulations.

#### *Judicial Powers of the Assistant to the Magistrate.*

The Assistant to the Magistrate has criminal jurisdiction in all cases that may be referred to him for trial by the Magistrate, and is authorised to exercise the judicial powers vested in the Magistrate by the Regulations, so far as may be necessary to enable him to perform the duties committed to him.

His power of punishment is limited to imprisonment for one month, with an additional period of one month's imprisonment in lieu of corporal punishment.

Whenever the Assistant to a Magistrate is reported by the Nizamut Adawlut to be qualified by his experience, industry, and abilities, to be entrusted with special powers, he may be specially authorised by the Governor-General in Council, in all cases referred to him in which an individual may be convicted of any criminal offence punishable under the Mahomedan Law and the Regulations, for which the penalties above quoted may be insufficient, to pass sentence of imprisonment not exceeding six months, together with an additional period of one month in lieu of corporal punishment.

#### *Judicial Powers of the Deputy Magistrate, Mahomedan Law Officer, Principal Sudder Ameen, and Sudder Ameen.*

These Officers have the like jurisdiction and powers as the Assistant Magistrate in cases that may be referred to them by the Magistrate. The Deputy Magistrate may also be specially empowered in the same way as the Assistant Magistrate; and when so specially empowered, his jurisdiction and powers of punishment are the same. He may be further invested with full magisterial powers by an order of the Governor-General in Council; and when so empowered he has the full judicial powers of Magistrate, and may punish to the same extent, *viz.* two years' imprisonment, with hard labor, and an additional term of imprisonment for one year in lieu of corporal punishment.

The compiler of the above summary has, however, omitted to notice one very important function of the Magistrate and his subordinates. This consists in investigating cases of dispute concerning the possession of land, when such are likely to lead to a breach of the peace, and in passing a decision, upholding in possession that person whom the Magistrate may find to have been in actual possession at the time when the dispute arose, leaving the parties disputant to litigate their rights to the land in a regular suit in the civil court. The above jurisdiction of the Magistrate is exercised under Act No. IV. of those passed by

the Indian Legislature in the year 1840. Such is the tendency of Indian landholders to have recourse to the *latthee*, rather than the ~~brief~~ in the first instance, for determining questions of title, that hardly a suit is instituted in the civil courts relating to the possession of lands which has not had its prelude in an "Act IV. of '40 case." The above jurisdiction is therefore the means of giving the Magistrate and his subordinates a pretty good training in the conduct of judicial investigations of a civil rather than a criminal nature. An appeal lies from the Magistrate to the Judge in the cases just noticed, as in all other cases of judicial trial before the Magistrate.

From every sentence or interlocutory order in criminal trials for petty offences or thefts, where the punishment is not more than imprisonment for one month, or a fine not exceeding 50 or 200 rupees, there is an appeal to the Magistrate.

From every sentence or interlocutory order in criminal trials, where the punishments are greater than those above specified, there is an appeal to the Sessions Judge.

From every sentence or order passed in a criminal trial by a Sessions Judge there is an appeal to the Sudder Nizamut Adawlut.

The Appellate Court calls for and revises the whole record of the case: but has no power to enhance punishment or to punish any person acquitted by the court below.

The decision of the Magistrate or Judge sitting as an appellate authority, should regularly be final; but practically an appeal therefrom to the Sudder Nizamut Court is gained by resort being had, at the instance of the accused, to the power conferred on the Nizamut Court by the Legislature, "at all times 'to call for the records of any criminal trials of any subordinate court, and to pass upon them such orders as may seem fit.'"

The law which the courts exercising criminal jurisdiction administer is that which prevailed in India under the Mahomedan rulers of the country as modified by the Regulations of the British Government and the acts of the Legislative Council. The Mahomedan law as to a large class of offences permits to the discretion of the Judge the nature and classification of the act impugned as well as the measure of punishment proportionate thereto, and the Legislature under British rule has restrained the exercise of this discretion, no further than by imposing limits to the severity of the punishment which the Judge may impose. Much of the obloquy which has been heaped upon "Company's Judges" may be attributed to this defective state of the law which ought to guide them in their decisions.

The criminal courts differ from the civil courts in one very essential particular as respects the extent of their jurisdiction.

From the jurisdiction of the civil courts no person whatever is exempted by reason of birth or descent. British-born subjects were originally exempt from this jurisdiction: but in 1813, on the occasion of the renewal of the East India Company's Charter in that year, British subjects residing, trading, or holding immovable property in the provinces were made amenable to the Company's Courts in civil suits brought against them by the natives, with, however, a right of appeal to Her Majesty's Supreme Court at Calcutta, in cases where an appeal otherwise lay to the Sudder Dewanny Adawlut. At this time the jurisdiction of Native Judges was restricted to suits in which the value did not exceed 100 rupees. In 1814, Moonsiffs and Sudder Ameens were appointed, the former to try cases not exceeding 64 rupees, and the latter cases not exceeding 150 rupees, but neither Moonsiffs nor Sudder Ameens were empowered to take cognisance of any suits in which a British European subject, or an European foreigner, or an American, was a party. In 1821, the limit of the Moonsiff's jurisdiction was extended to 150 rupees. In 1827, the jurisdiction of the Sudder Ameen was extended to 1,000 rupees. In 1831, that of the Moonsiff was extended to 300 rupees; and, at the same time Principal Sudder Ameens were appointed, with power to take cognisance of suits referred to them by the Zillah Judges of the value not exceeding 5,000 rupees; but the Principal Sudder Ameen was forbidden to take cognisance of any suit in which an European British subject, or an European foreigner, or an American should be a party. Such continued to be the state of things up to the end of the East India Company's exclusive reign in India. The Imperial Parliament had not ventured to subject European British subjects to the jurisdiction of Judges of another creed and color save in petty civil suits up to the value of 100 rupees: and the much-abused Merchant Sovereigns who ruled the people and monopolised the commerce of India adhered to the same policy. In 1833 was passed the Act "for effecting an arrangement with the 'East India Company, and for the better government of His Majesty's Indian Territories," by which the Company's exclusive trade privileges were abolished, and a system of double Government established; and which, rather than the recent Act by which the Government of India was avowedly transferred to Her Majesty, may be entitled the death warrant of the Kumpanee Bahadoor. From that time the policy of the Indian Government, as respects Europeans resident in India, was, whether wisely or unwisely, totally changed; and the Anglo-Saxon then began to learn the lesson, not yet thoroughly read, that he must take his place in the same rank with Hindoo or Mussulman as a

subject of Her Majesty. In 1836, an Act was passed by the Legislative Council of India, by which the right of appeal theretofore enjoyed by the British subjects from the Company's Courts to Her Majesty's Supreme Court was taken away, and it was enacted, that no person, by reason of birth or descent, should be exempt from the jurisdiction of the Company's Courts above that of the Moonsiff in any civil proceeding whatever, and in 1843, the exception as regards the Moonsiff's Courts was also abolished. Vehement were the struggles of indignant Britons against what they regarded as alike degrading their dignity and rendering their property precarious; loud and furious were the declamations in the Town Hall: but liberty and equality was the maxim inculcated by a Government itself absolutely despotic, and the so-called "Black Act" passed. The limit of 5,000 rupees, which at that time defined the extent of the Principal Sudder Ameen's jurisdiction, was soon afterwards removed; and at the present day the European resident in the Mofussil must be content to submit a case, involving perhaps his entire fortune, to the decision of a Hindoo or Mahomedan, who has never heard of Westminster Hall, and whose salary is perhaps not more than that which the suitor gives to his head clerk or assistant.

As respects criminal matters, the process of putting the British-born subjects of Her Majesty on the same footing with the native of India has not made such rapid progress.

In 1813, the same Act of the Imperial Parliament which subjected the European British subject to the Company's civil courts, reserving to him his right of appeal to the Courts established by Royal Charter, made him, if resident in the Mofussil, liable, under the sentence of the District and Zillah Magistrates, for assaults and trespasses against the natives of India, to a fine not exceeding 500 rupees, or two months' imprisonment in case of non-payment of the fine; but the convictions of such Magistrates were removable by *certiorari* to the Supreme Court established by Royal Charter. In 1843, by an Act of the Legislative Council of India, the right of removal by *certiorari* was taken away, and it was enacted that an appeal from the sentence of the Magistrate in the cases just mentioned should lie to the same courts, and according to the same rules as were provided in the case of sentences passed by Magistrates in the exercise of their ordinary jurisdiction. The passing of this Act was vehemently opposed by the European residents in the Bengal provinces, but with no better success than attended the agitation against the civil Black Acts. By an Act of 1853, assaults and trespasses by a British-born subject against any person whatever were made punishable in the same way as those against natives of India. By an Act of 1848,

Magistrates and Joint-Magistrates were empowered to take *moochulkas*, or penal recognisances for good behaviour and keeping the peace, from British subjects, as well as other persons. Also by certain Acts, such as that for the "suppression of lotteries," and that "concerning the binding of apprentices," British-born subjects are either not exempted from, or are made specially subject to, the jurisdiction of the local courts in respect of offences under such Acts: but these are Acts of rare operation. With the exceptions above noticed, British-born subjects of Her Majesty resident in the Bengal Presidency are exempted from the criminal jurisdiction of the Zillah Courts, and are amenable in respect of crimes only to Her Majesty's Supreme Court of Judicature at Calcutta.

Our notice of the judicial system of the Bengal Provinces would be incomplete without some account of the Revenue Courts.

The *Sudder Board of Revenue* presides over the establishment, consisting of Commissioners, Collectors, and their Deputies, by whose means are realised those portions of the public income which arise from the land revenue or tax, (hardly properly so described, as it more resembles a rent payable to Government as superior landlords,) the customs, and the salt and opium monopolies.

The first and most important of these taxes is a charge upon the land itself. Government looks to each estate as the ultimate security for the revenue charged upon it, and by sale of which that revenue must ultimately be realised, in the event of default being made by the *zemindar* who holds the estate. This *zemindar* occupies a portion half analogous to that of proprietor of the estate, half to that of a publican or farmer of the tax payable by the *ryots* or cultivators of the land within his estate or *zemindary*. It will be understood from this state of relations that the Government has an intimate interest in preserving the landmarks of each *zemindary*. It must watch, lest by portions of an estate being transferred to other *zemindari*s, the security of Government upon the dismembered estate should be diminished, and purchasers in case of a sale for default embarrassed. It must superintend partitions, when made among shareholders of the *zemindary*, and sales of portions to other *zemindars*, in order that care may be taken that its due share of the revenue be made chargeable upon each of the portions assigned in severalty. It must examine into the tenures of those who claim interest in each estate, in order to ascertain with whom the adjustment of the dues to Government can most justly and most safely be made. Moreover, as the English rulers of India have thought fit to recognise the validity of *bonâ fide* grants of estates exempt from

the payment of revenue made during the reigns of Native Sovereigns, they have imposed upon themselves the necessity of constant vigilance, lest exemption should be fraudulently claimed under color of ancient rent-free or *lakhiraj* tenure. Occasion for investigation and interference is also constantly occurring from the inroads of those inveterate removers of land-marks, the Ganges and her tributaries, who make nothing of the bodily conveyance of a few thousand acres from one township to another in the course of a single rainy season. Lastly, as prompt payments of the revenue is exacted from the zemindar, it becomes incumbent on Government to provide him with somewhat stringent methods of bringing defaulting ryots to book, and at the same time to overlook the operation of the squeezing process, lest the ryot should be pressed to death, instead of being made to yield his just quota of revenue.

A proper care for its own interests, and a sense of its duties as landlord, has thus obliged Government to invest its tax-gatherers with considerable powers for the conduct of summary judicial investigations. Without pretending to examine minutely into the extent and practice of this jurisdiction, we may mention, as instances of its exercise, that the Collector, when making or revising settlements of land revenue, is empowered to investigate and declare the nature and extent of interests possessed by persons occupying the soil; to hear, try, and determine all claims to property in and possession of the land, or the rent or produce thereof, and to give possession to the party who may appear to have the best title. From his decision an appeal lies to the Commissioner, and again to the Sudder Board of Revenue; and the party who may think himself aggrieved by the final decision of the revenue authorities can seek redress by a regular suit in the ordinary courts to try the right. The Collector is also authorised to conclude settlements between *lakhiraj* dars and those holding tenures subordinate to them, subject to the like right of appeal, and of contesting the matter in a regular suit in the ordinary courts. He also receives and tries by summary process all suits for rent by zemindars against their ryots or under-tenants, as well as complaints preferred by the ryots and under-tenants on account of excessive demands or undue exactions of rent, whether by distraint or otherwise; as well as all suits relative to the adjustment of accounts between landholders and farmers of land, or under-tenants of any description, with their sureties, and agents, and to all other matters immediately connected with the demand, receipt, or payment of rents, the delivery of pottahs and the engagements between landholders and their under-tenants. In all such suits an appeal lies from the decision of the Collector to the Commissioner and to the

Sudder Board, whose final decision also may be contested by regular suit in the ordinary courts.

In the above suits the written pleadings are a plaint and answer: witnesses are examined on oath, and pleaders are heard on either side, as in regular suits in the ordinary courts.

Again, all suits preferred in the regular courts for the revenue of lands which the possessor claims to hold as lakhiraj or free from assessment, as well all suits so preferred by persons claiming to hold the lands as lakhiraj, must, immediately upon their institution, be referred to the Collector for investigation and report. Such investigation is conducted like a regular suit, and the evidence adduced is often most lengthy and intricate.

As above-mentioned, all partitions of estates—which, owing to the Hindoo law, under whose provisions lands do not descend to the eldest son, but to all the sons of a deceased proprietor in equal shares, are very numerous—are affected under the superintendence of the Collector.

The first proceeding in such cases is to send an Ameen or Surveyor, who, after receiving upon oath from the proprietors and their agents accounts of the produce of each village, and other information requisite to enable him to assess the portion of the public revenue to be borne by each of the separate estates into which the joint property is to be divided, reports to the Collector the partition which he recommends to be made, with a detail of the adjustment which he proposes respecting tanks, places of worship, &c., which it may be desirable should still remain as joint property. The Collector, after receiving objections, and hearing the parties or their Vakeels, draws up a paper of partition, and from his proceeding an appeal lies to the Board of Revenue, whose decision is final. In practice each partition presents the appearance of a hotly contested litigation, often extending over several years.

The system of Judicial Establishments, of which we have attempted a description in the foregoing pages, has been arrived at by successive modifications of that which Lord Cornwallis may be said almost to have created out of the chaotic elements which existed previous to the year 1793. It is no experiment of yesterday's birth, to be lightly re-placed to-day by a new invention. Neither is it a simple and, as it were, accidental system, to be rashly dealt with by any innovator anxious to bring general principles to bear upon its frame; but one of a highly artificial and complex construction, whose mechanism cannot be understood without careful study, nor safely handled except by one possessing both skill in the craft of jurisprudence and patience to examine before he pulls to pieces.



We are not ambitious of promulgating in the present article our own scheme of reform ; but we think we may with advantage, before quitting the subject, notice a few of the evils which are made the matter of most general complaint under the existing state of Indian Judicature.

First, then, as affecting the administration of justice alike in the Civil and Criminal Courts, we may point to the frightful amount of perjury, and of forgery supported by perjury, which present themselves to be dealt with by the Indian Judge. Not only is there a general want of truthfulness in native evidence, which renders untrustworthy nine out of ten of the Hindoo and Mahomedan witnesses, who are naturally and fairly connected with cases under investigation, being really cognisant to some degree of the transactions of which they give their version in the witness-box ; but the courts are infested by a swarm of professional witnesses, who gain their daily bread by perjury—wretches of the true type of those “sons of Belial” who were supplied to the order of Jezebel by the nobles of Jezreel. These men travel from zillah to zillah, leaving one court, as the breath of their lying begins to stink in the nostrils of the Judge, to seek another where the accents of their shameless voice are less familiar. Sometimes they are retained in the regular service of wealthy suborners, who, having estates in several zillahs, can, by moving them from one jurisdiction to another, keep their perjury fresh for use ; and these are the most dangerous of their class, because, from their general acquaintance with their master’s affairs, they are enabled to advert to actual occurrences, which give a semblance of substance to their fictions. Others prostitute themselves to every comer, and sell their wares so cheap that it is often found convenient to have a separate set of witnesses to each distinct fact in the cause, in order that the danger of being broken down in cross-examination may be avoided by each deponent swearing to but one fact, and sticking to what he swears.

Forgery is as much an item of commerce as perjury, and is offered in the like abundance and upon equally moderate terms. During a recent trial some insight was obtained into the working of a forgery business, which had been carried on by a firm, the interest of each partner having been transmitted from father to son through three or four generations. Stamped paper of each successive year kept blank ready for use, specimens of the handwriting and signatures of all who had held local office, and of the principal suitors and vakeels engaged in litigation during the period since the establishment of the business, and fac-similes of the seals of all the local courts formed part of the stock-in-trade of the firm. The skill in their art acquired by

these hereditary practitioners of fraud is something marvellous. Forgeries so cunning as to deceive the very person whose hand-writing is the subject of imitation, are thrown off with a rapidity which might almost shame the printing press. A master of the craft disdains the servile labor of a mere copyist, and from a short inspection of a letter, he is able to catch the style of the writer; after doing which, he is prepared to produce to order a correspondence of any length in the required hand-writing at so much per folio. The existence of these illegitimate law-stationers is so well known, that no more faith is accorded in the Zillah Courts to documentary evidence than to mere *viva voce* testimony. A case recently fell under our observation, in which a prisoner was acquitted by the highest Court of Appeal, although, to find him innocent, involved the necessity of pronouncing a heap of letters, upwards of one hundred in number, and purporting to be in the hand-writing of eight or ten different and well-known individuals, to be forgeries.

It is to the filth of perjury and forgery with which the witness box of an Indian Court teems that we must ascribe the growth of that feeling of reluctance to give evidence on judicial investigation, which almost amounts to a religious prejudice on the part of the respectable natives of India.

Manifestly no mere reform in Judicial Procedure can reach the root of the evil we have just noticed.

The new Procedure Act of 1859 attempts a remedy by making provision, as above noticed, for the verification of the pleadings, and by attaching to the offence of verifying any averment which the person making the verification shall know or believe to be false, or shall not know or believe to be true, the same punishment to which the law subjects one guilty of giving or fabricating false evidence. We fear, however, that the means of evading the operation of this most salutary enactment will be found in the clause which provides, that, "if the plaintiff, by reason of absence, or for other good cause, be unable to subscribe and verify the plaint, the court may allow the plaint to be subscribed and verified on behalf of the plaintiff by any person whom the court may consider competent to make the verification." Unless the Judges be very firm, verification by agent will become the rule with suitors; and even if the courts be rigid in exacting the personal verification of the plaintiff, the system of holding property *benamée* will too often enable the real suitor to cheat the law by putting forward a man of straw as the ostensible plaintiff on record.

Something, we think, might be done towards holding falsehood responsible by enrolling a body of regular practitioners as Attorneys in the Mofussil Courts. The Advocate practising in

these Courts, under the name of Vakeels, are already admitted under Regulation, and have, together with the Barristers and Attorneys of the Supreme Court, the exclusive privilege of pleading. They are required, previous to admission, to pass an examination. This has hitherto been principally confined to testing the candidate's proficiency in the rules of practice of the Courts, and the law established by the Regulations and Acts of the Indian Legislature, but will, in all probability, soon be extended so as to embrace the general principles of Jurisprudence and Law as recognised by the English Courts. These are now taught by an able Professor, an English Barrister, attached to the Presidency College, whose certificate of competency has hitherto been of the same effect as that of the regular public examiners, as entitling the possessor to apply for admission to practise as an Advocate in the Mofussil, but will shortly be replaced by a diploma to be granted by the University of Calcutta. The result of the above provisions has been, that the Mofussil Bar has of late years advanced greatly in character and ability. Its position has also been much improved as regards independence; and the boldness of the Advocate may now be found where before the flattery of the sycophant cringing to the presiding "Incarnation of Justice" was only known. Below the Bar, however, no licensed practitioner is attached to the Mofussil Court. The only person known to the court as conducting the cause previous to the hearing is the Mookteah, or Agent, whom the suitor may appoint and remove at his own pleasure. He, it is, who files the pleadings, presents the interlocutory petitions, retains the Vakeels, and, above all, *prepares* the evidence. He is the uncontrolled and practically speaking irresponsible *dominus litis*. As a rule, he is an unmitigated scoundrel. To hire witnesses for his own side, to buy off those of the other, to go into the market for false oaths and forged documents, to cheat the Vakeel of his fees, to keep his master constantly at law, and, if the bid be high enough, to sell him to his adversary, is the calling of this prince of rogues. The Judge who cannot correct, is content to distrust; the practitioner to whom character is worthless, is satisfied to be without it. We cannot but feel that something could and ought to be done to amend this state of things; and we see no reason why means which are found effectual to secure the respectability of the general body of persons practising below the Bar in the Courts of England should wholly fail of a like success in those of India.

The evil to which we have just adverted is one with which the judicial reformer can only partially grapple, inasmuch as its root lies more in the moral depravity of the suitors or their agents

than in a defective system of Judicature. We shall now, however, proceed to notice what we consider a radical error in the constitution of the courts themselves. We allude to the too great facility for appeals and reviews of judgment which exists under the present Code of procedure of the civil courts.

The ordinary history of a case in which the title to land is in dispute will be found to be as follows :—

First, one of the claimants institutes what we have before mentioned as an “Act IV. of ’40 case” in the Magistrate’s Court; that is to say, he prefers a complaint that he has been forcibly turned out of possession of the land in question; whereupon it becomes the duty of the Magistrate, under the provisions of Act IV. of 1840, to ascertain who was in possession when the dispute first arose, and to restore or maintain the original possession. The proceeding, though held in the Magistrate’s Court, has been pronounced to be of a civil nature. At the outset the Magistrate probably directs one of his native subordinates to make a local investigation into the matter of complaint. This functionary, after examining a crowd of witnesses on either side, makes a preliminary report, after which the case is heard and evidence taken before the Magisterial officer who has to dispose of it. There are no formal pleadings, but petitions and counter-petitions, and replies to the Magistrate’s perwannahs, calling for explanations from the litigant parties, supply their place; and the investigation assumes the dimensions and appearance of a regular and vigorously contested suit. From the Magistrate’s decision an appeal lies both upon fact and law to the Sessions Judge, to whom the whole evidence is opened by the pleaders on either side, and who may remand the case for further enquiry upon particular points, or may, by his judgment, at once finally close this part of the case. After a litigation, often prolonged during several months, one of the rival claimants is now established in the enjoyment of the bone of contention, pending the decision of the regular suit, which the unsuccessful party forthwith commences in the Court of the Principal Sudder Ameen to try the title to the land. The whole case is now gone into afresh, as if no investigation had been held by the Magistrate. Pleadings are filed, and the Principal Sudder Ameen, after hearing the evidence, declares the rights of the parties. An appeal lies from the Ameen’s decision, if the value of the land be upwards of 5,000 rupees, to the Sudder Dewanny Adawlut direct; if of less amount, to the Civil Judge of the zillah. This is an appeal both upon fact and law, and the whole of the evidence taken is read and discussed. It may be that the decision of the lower court has proceeded upon some

plea of law in bar ; say, for instance, that the claim set up is barred by the statute of limitation. The higher court may hold that the plea is not, under the circumstance of the case, applicable, and may remand the case for further investigation into the facts constituting the title of either party. In such case there is a fresh hearing on evidence before the court below, followed by a renewed regular appeal to the higher court. When that court has given its decision, an application is made to have the case admitted to review. Upon this application the evidence may be re-opened to the court. Should the application be granted, which, however, is not often done, the whole debate upon the appeal is renewed, and all the facts of the case again pass in review before the court. Should the appeal have been in the first instance, from the Ameen to the Zillah Judge, a further special appeal, upon matters of law, will lie from his decision to the Sudder Court. This appeal is not a matter of right, but involves a preliminary application to a Judge of the Sudder Court ; who, after hearing counsel for either party, grants or refuses his certificate that the case is fit to be heard in appeal upon certain specified points. If the certificate be granted, the appeal is heard. The hearing is followed by an application for admission to review, and if that be successful by the hearing in review. When the case has finally gone through its course in the Indian Courts, it may, if the amount in dispute be 10,000 rupees or upwards, take ship and re-appear in England on appeal to Her Majesty in Council.

Lest the reader should suppose that we have been describing a course of litigation rather possible to occur than such as is of actual occurrence in the Mofussil Courts, we give below the history of a case, in which the writer of the present article was professionally concerned within the last year.

In 1820, a Hindoo zemindar died, leaving two sons, Doorgapersad Roy Chowdhree and Tarapersad Roy Chowdhree, entitled as such, in the absence of a will, to the property of their deceased father in equal shares.

Litigation very shortly afterwards arose between the brothers, in consequence of Doorgapersad setting up a will of his deceased father, the authenticity of which was denied by Tarapersad ; but before the suit had proceeded further than the appeal to the Sudder Dewanny Adawlut, and while that appeal was pending, a compromise was entered into between the two brothers ; the younger, Tarapersad, consenting to take as his share of the paternal estate six-sixteenths, leaving to his brother ten-sixteenths.

So far, however, was this compromise from being a termination of the disputes between the two brothers, that it became

the source of litigation, ramifying into several branches, one of which only, connected with one particular item of the paternal property, we shall trace in its progress.

Doorgapersad, in an action commenced by him as alleged executor of his father against one Nundee, obtained a decree in the lower court for 23,000 rupees, with interest; and upon an appeal being preferred to the Sudder Court, compromised the claim with the debtor for 24,000 rupees, payable in three years, without interest.

In 1835, Tarapersad sued Doorgapersad and the debtor Nundee in the Zillah Court, claiming his six-sixteenths of the amount of the original decree against Nundee with interest.

The Zillah Judge, in 1836, made a decree in favor of Tarapersad's claim, with the exception of a portion of the interest claimed, which he disallowed.

The Sudder Court, in 1840, *on appeal*, affirmed this decree: but afterwards *on review*, in 1841, reversed it, allowing Tarapersad's claim to six-sixteenths of the original amount decreed against Nundee, with interest from the date of that decree to the time of Tarapersad's instituting his suit.

The Privy Council *on appeal* reversed the decision of the Sudder Court, and declared that Doorgapersad was liable to Tarapersad for six-sixteenths, not of the whole amount decreed against Nundee, but of such portion only thereof as Doorgapersad had recovered or might thereafter recover, and referred the case back to the Sudder Court to ascertain and carry out the rights and liabilities of the parties as so declared.

The decree of the Privy Council was sent down to the Zillah Court to be executed. That Court—finding that Doorgapersad had taken out execution of his decree against Nundee, and had seized and brought to sale an estate belonging to Nundee, called Mujhoonamoota, and had himself become purchaser, paying the purchase-money by a receipt acknowledging satisfaction to that amount of his decree against Nundee—decided that Tarapersad was entitled to six-sixteenths of the estate so purchased out of the money which Nundee had been decreed to pay.

Against this order Doorgapersad appealed to the Sudder Court in 1856, which reversed it, declaring Tarapersad to be entitled only to six-sixteenths of the amount which Mujhoonamoota had fetched at the sale in execution, and not of the estate itself.

The case was re-argued on an application for a review of judgment; but the Sudder Court upheld the former decision, giving, however, an option to Tarapersad of accepting the money to which he was declared entitled, or of instituting a regular suit for the share which he claimed in Mujhoonamoota.

Tarapersad brought his suit in the Zillah Court for the share of Mujhoonamoota. This was dismissed at the hearing. He then appealed to the Sudder Court: this appeal was heard in 1856, and dismissed: an application for review of judgment was made in 1857, but rejected.

We have thus the original hearing of the lower court; a hearing before the Sudder Court in appeal; a hearing before the Sudder Court on application for review, and again upon review when granted; a hearing before the Privy Council in appeal; a hearing before the Zillah Court on the remand for execution; a hearing before the Sudder Court on appeal from the lower court's order; a hearing on application for review before the Sudder Court; a hearing before the Zillah Court on the suit instituted by Tarapersad, under the option given him by the Sudder Court; a hearing before the Sudder Court of the last-mentioned suit on appeal; and a hearing on the final application for review.—In all eleven hearings, extending over a period of time from 1836 to 1856.

But we have not yet done with the litigation which arose out of the claim against Nundee.

Doorgapersad's original decree against Nundee did not include the interest which had accrued against the debtor during the time that the suit had been pending (a period of upwards of eight years) in the court which made the decree.

Tarapersad, after the result in his favor of the review in the Sudder Court in 1841, instituted a fresh suit in the Zillah Court against Doorgapersad, for the recovery of the interest accrued, as above noticed, during the pendency of the suit.

The suit was heard before the Principal Sudder Ameen in 1842, and dismissed on a plea of the statute of limitations.

The Zillah Judge, on appeal, in 1843, reversed the decision of the Principal Sudder Ameen; and passed a decree in favor of Tarapersad for the amount claimed.

The Sudder Court, on application made in 1845, admitted the case to special appeal.

In 1847, the special appeal was heard before the Sudder, and dismissed.

In 1848, an application was made to the Sudder Court for review of the judgment, dismissing the special appeal, but was disallowed.

At this juncture news of the decree of the Privy Council in the suit for the principal money arrived in this country. Of course, with Tarapersad's right as against Doorgapersad personally for the principal had fallen also his right to the interest: but for the latter there stood the decree in his favor, against which there had been no appeal to the Privy

Council, the amount in dispute being below the appealable amount.

Doorgapersad, in 1852, applied to have a second review under the peculiar circumstances of the case admitted by that court, and his application was allowed.

In 1853, the review was heard, and the former decree upheld ; but on the ground, merely that the grounds upon which the special appeal had been originally admitted did not go to the merits of the claim, and that the court had no power on review to travel out of those grounds.

Doorgapersad, upon this, in 1854, tried an application to the Zillah Court which had originally decided the case on the merits, to have its judgment reviewed, but his application was unsuccessful.

Still undaunted he had recourse to a fresh suit, instituted *de novo* in 1857 in the Court of the Principal Sudder Ameen, to recover the money which he had been made to pay to Tarapersad upon a claim which the Privy Council's decree showed to be untenable.

The Principal Sudder Ameen dismissed the suit, on the ground that the decision of the Privy Council had given no cause of action, and that the claim was consequently barred by the statute of limitations.

Doorgapersad appealed to the Sudder Court, which, in 1859, decided the case against him ; but expressed an opinion, that there was no legal bar to his reiterating his application to the Zillah Court for a review of its judgment in the former suit for interest.

Encouraged by this expression of opinion, Doorgapersad applied to the Zillah Court to have the case admitted to review : but received, what we may probably consider, his final *quietus* by that Court's rejection of his application.

Adding then these eleven hearings of the suit for interest to the same number of the suit for principal, we find the same parties twenty-two times before the Court upon one and the same subject-matter of claim.

The above case illustrates well both the pertinacity of the Hindoo in litigation, and the encouragement which he receives therein by the present law and practice concerning appeals and reviews of judgment. The fact of such frequent opportunity for appeal being given, implies an admission of want of confidence in the Zillah Courts by the Legislature which established them ; and this leads us naturally to the discussion of another defect universally allowed to belong to the present system of Indian Judicature, the want of Judges regularly trained to the law. This is a fault much more easily pointed out than remedied. The somewhat overstocked market of



legal talent in England proffers a supply of "Barristers of five years' standing" as a panacea for all the ills to which the Indian suitor is heir. We have no wish to disparage the article which is tendered to us; but, admitting that it has many good qualities, we see more difficulty in the way of its universal application in India than are perhaps apparent to many an honest reformer, who recommends its introduction from the vicinity of Westminster Hall.

In the first place we have to point attention to its costliness. It has been seen that the courts of first instance for the trial of civil causes, of whatever magnitude and importance, are presided over by Judges, of whom the highest in rank has a salary of but 600 rupees a month, or about £700 a year. This would hardly tempt even Mr. Briefless to emigrate to India; much less would it suffice to procure the services of any English Lawyer, whose legal attainments would be superior to those of the Judges now on the Mofussil Bench. Probably competent English Lawyers might be prevailed upon to accept Zillah Judgeships on 2,500 rupees a month, with the Sudder Bench and its 4,000 rupees a month in prospect; but much would have to be done before an English Lawyer would be fitted for the post of a Judge in the Mofussil. The language in which the proceedings in each Zillah Court are conducted is the Vernacular of the district. Few men of the maturity of Barristers of five years' standing can acquire the familiar use of a tongue which they have not learned during their youth. This difficulty might perhaps be met by making use of Interpreters to explain the oral and written evidence to the court, as is done in the Supreme Court, and by requiring the pleadings to be conducted in English. We are far from contending that this might not be a wise arrangement. No measure would have a greater tendency to increase English influence in India. Few who could afford to pay for an education would remain ignorant of the language in which causes involving their fortunes and liberties might be debated. Channels for the diffusion of English ideas and English civilisation would thus be opened in every direction, and would permeate the very penetralia of Indian Society. The courts themselves would be much improved, as well by their proceedings being made more open to that portion of the public which understands the proper use of a free press, as by the more frequent appearance at their bar of a higher order of practitioners trained in the Supreme and Sudder Courts. But this alteration, desirable as it might be, could not be carried into effect without considerable previous delay spent in the training of Interpreters and of Pleaders able to conduct arguments in English.

Supposing this preliminary change made, we should still regret to see the present Mofussil Judges displaced by men fresh from England. We cannot but feel many mis-givings that, were the appointments to the Mofussil Bench made under ministerial patronage, interest rather than legal competency would form, in the majority of instances, the recommendation to office. Even should a miraculous intervention in favor of India prove superior to the besetting sin of English Statesmen, there would yet remain the consideration, that even an able English Lawyer would have much to learn before he could become an efficient Judge in the Mofussil. It is a great mistake to suppose that, under the present system, most of the Zillah Judges are men of no judicial experience; that men are pitch-forked from the Secretary's Office or the Custom House upon the Bench, and that a Covenanted Servant of Government is frequently found meting out salt one day and justice the next. We have carefully traced the previous career in the public service of the thirty Judges and Additional Judges, who were actually presiding in the Zillah Courts of the Bengal Provinces at the commencement of last year; and find that, with very rare exceptions, they have risen regularly through the grades of Assistant to the Magistrate and Collector, or to the Commissioner of Revenue, of Joint Magistrate and Deputy Collector, of Magistrate or Collector, or Magistrate and Collector, to the rank of Civil and Sessions Judge. The only exceptions worth noticing are in the cases of one officer, who was for about two years and a half Deputy Register in the Sudder Court, one who was between three and four years Superintendent of Revenue Surveys, one who was for four years and a half in the Salt and Opium Department, one who was for about seven years Under-Secretary to the Government of Bengal, one who was between two and five years a Salt Agent, one who was for two years Assistant to the Resident at Singapore, one who was for two years Commissioner for the Suppression of Dacoity, with the powers of a Magistrate, and one who was for about six or seven years Assistant to the Resident at Penang and Wellesley, and one for three years Assistant Resident in the Straits.

The average period which we find to have elapsed between the arrival of the young Civilian in India, and his becoming vested for a permanence with the full powers of Magistrate or Collector is just nine years.

The average period between arrival and attaining for a permanence to the full powers of Civil and Sessions Judge has been nineteen years and a quarter.

After making allowances for absence on furlough or sick leave, this would give us about seventeen years' of actual service in

appointments, the duties of which we have seen to be in a great measure judicial, as the ordinary course of training for a seat on the Bench of the Provincial Courts in lower Bengal. During that period the Covenanted Civilian acquires an intimate acquaintance with the habits and character of the people to whom he is to dispense justice, of their prejudices, their social rules, their motives and ordinary course of action, all so different from those of Englishmen, that one who should bring the experience of a manhood spent in England to test the probabilities of a tale of Indian life would signally and inevitably fail of the truth. To this must be added a knowledge of the Mahomedan and Hindoo laws of inheritance and contracts, the complicated and varied system of Indian land tenure, and a considerable body of Regulation law; without which the ablest lawyer of Westminster Hall would be entirely at sea in the decision of probably the first case brought before him in a Mofussil Court. We incline to the opinion that a more desirable result would be obtained by selecting from among the Covenanted Civilians, after they should have gone through eight or ten years' general service in India, a certain number to be set apart for judicial employ, obliging them then to proceed to England to receive legal instruction and attend the courts at Westminster, than by importing Judges raw from England to deal out unknown laws to a strange people.

We fear that this proposal will be regarded as rank heresy by many of our readers. We are well aware that the idea of supplanting Covenanted Judges and Magistrates by independent English Barristers has long been a favorite with the unofficial English residents in the Mofussil. A sort of feud has long existed between Planter and Civilian: nor can it be denied that the former has had, on but too many occasions, good reason to complain of undeserved distrust, cool disregard of his interests, and in some instances a constant course of official hostility displayed towards him by the latter. It is not to be wondered at that the blood of the Anglo-Saxon has boiled at such treatment: before, however, jumping to the conclusion that all would be different were the bench occupied by ready-made Judges with direct appointments from England, it is worth while to consider how much of the official misconduct complained of has been attributable to "human nature," and how much to class antipathy. The covenanted judicial officer in the interior has great power. The Magistrate may be said to rule the zillah, subject only to the occasional interference of the more sublime, though less immediately active, potentate, the Judge. At the sovereign will of these two High Mightinesses rest the fortunes of each dweller in the district. Is it unlikely that the exercise of such a

sway over a community which does not presume to have an opinion, and has not the means of expressing it if felt, should beget an arbitrary disposition in the possessor? Is it matter of astonishment that he should look with disfavor upon those rare exceptions from the servile crowd which bows at his nod who dare to dispute his authority or criticise his acts? Is it impossible that the consciousness of supreme authority over a district wanting alike a public and a press might develop tyrannical propensities even in a Barrister of five years' standing? It must also be recollected that neither is the Civil Servant of the present day nor the Government which he serves such as they formerly were. The Company and its servants never perhaps entirely forgot the days when the independent adventurer in India was styled an "interloper," and was liable to deportation, should he offer any offence to the ruling powers. Now-a-days the Crown taxes the ingenuity of its officers to devise modes for attracting British capital and British skill into the interior. Assuredly the Mofussil Magistrate will no longer seek to gain the approval of Government by activity in thwarting Anglo-Saxon enterprise within his district. Again, under the Leadenhall Street system of patronage, the Civil Service was, to a great extent, recruited from a few favored families. A member of the Clan Pattle, Clan Plowden, Clan Campbell, or Clan Lushington, was therefore sure of obtaining powerful assistance to get him out of any scrape in which his official misconduct might involve him. The Civilian thus acted under a sense of irresponsibility, and could generally afford to despise any attempt to expose him in high quarters. Now that appointments to the public service in India are offered as prizes for open competition, men from all the different families of the English middle classes will press in. The strong *esprit de corps* which has hitherto been a distinguishing characteristic of the Indian Covenanted Servant will be weakened—a result in some respects to be regretted, but which will render the censure of his superiors a matter of greater dread than heretofore by the Mofussil official, and will induce greater caution against giving occasion for complaint regarding his mode of discharging his public duties.

The point that we shall next notice as giving rise to great and well-deserved dissatisfaction with the present arrangements for dispensing justice in India is the uniting in one and the same individual the functions of Superintendent of the Executive Police and Judicial Magistrate of the Zillah. At the head of his force of detectives the Magistrate will often be employed for weeks in tracing the evidence of crime to some supposed offender, perhaps an influential man of the zillah, who uses

the assistance of a corps of retainers every whit as cunning and well-trained as the official pack to baffle the exertions of his pursuers. The two plot and counter-plot, thrust and parry, keep mutual watch and ward, and the contest becomes one of much interest and excitement. When, at length, the Magistrate thinks that he has stopped up every avenue to escape, and has become not a little exasperated at the difficulties he has experienced in so doing, he takes his seat as Judge to pronounce upon the conclusiveness of the evidence which he has himself got together. It would require a something unusual ingenuity of mind on the part of the Magistrate to allow, at this stage of the proceedings, what may perhaps be the fact, that he has been duped by a conspiracy into taking all his foregone trouble to hunt down an innocent man, whose struggles have not been to evade justice, but to frustrate the wiles of some concealed enemy who has had the whole subordinate Police in his pay to furnish the lying reports by which the Magistrate has been stimulated to exertion. We hold it to be impossible that the duties of Prosecutor and Judge should be carried on simultaneously and satisfactorily by the same individual. Yet that a Mofussil Magistrate does act in such double capacity we have proof in the written decision now before us of one of those Officers recording a judgment which was afterwards reversed on appeal by the highest court. We find in this judicial decision such passages as the following:—"Amidst much other work I have, to my own mind, *satisfactorily proved* that these letters were really 'written by the amlah, whom they purport to be written by;'" and again, "Now *I have proved* by perfectly independent testimony, and by documentary evidence, and by strict Police investigation, that this man was the gomashita of the defendant." Can the same man prove and judge of the cogency of the proof?

Not the least of the advantages to be derived from dissociating the offices of Superintendent of Police and Magistrate would be that the conduct of the native subordinate Police Officers would pass under review of an Officer unconnected with the Police Department. Great abuses, among which may be mentioned the torturing of prisoners and witnesses, extortion and the fabrication of confessions, would thus be detected and checked. Under the present system the Magistrate is loath to believe ill of an officer from whose ability and zeal he may have derived much valuable assistance in the detection of crime and the apprehension of offenders. The Police Darogah generally manages to "get the length of the Magistrate's foot," and of no small profit to himself, but of infinite detriment

to the rest of Her Majesty's liege subjects, is this result of his skill in the art of mensuration.

We shall close our article, which has already extended far beyond the limits which we originally designed, with a few words upon a question always keenly debated whenever the subject of Reform of the Indian Courts is brought under discussion—the propriety or otherwise of subjecting the British-born subjects of Her Majesty residing in the Mofussil to the jurisdiction of the local criminal courts. We have already mentioned that the members of this class of residents in India are amenable, except as respects a few trivial misdemeanors, to no other criminal jurisdiction than that exercised by the Supreme Court established by Royal Charter at the capital of the Presidency to which they belong. The necessity which this involves of dragging the accused and the witnesses for the prosecution and defence over distances measured by hundreds of miles, not only occasions great public expense and private inconvenience, but also tends in a good measure to secure to the privileged class an immunity from punishment for all but the most heinous crimes. That such a state of things is highly objectionable cannot be denied; but the true Briton contends that any evil is to be tolerated rather than that he should be robbed, within the dominions of the British Crown, of his birth-right, trial by Jury; which it is admitted he cannot have, except as the mere mockery of a form, elsewhere than at the Presidency Towns. The advocate of general principles insists that no Government justly deserves the allegiance of its subjects which does not provide equal laws for all alike. The Anglo-Saxon, on the other hand, protests against being sacrificed to a dogma, and syllogized out of the liberty which his fore-fathers won with their blood. He maintains that the natives of India have now better Courts of Justice than they ever had under their own Sovereigns—that they do not ask for and would not appreciate trial by Jury; that the movement a-foot is not to give them better institutions, but him worse.

The logic of the Reformer is the simpler, and has prevailed with English Statesmen and Parliamentary Committees, who have perhaps only erred in mistaking India for Utopia. Before the mutinies “one people, one law” was the doctrine in the mouth of every one except the Anglo-Saxon Interloper himself. The Legislative Council was preparing to pass an harmonious vote for the abolition of the last remains of class privilege in India; and the writer of this article was one of those who looked on approvingly. He confessed that the late social convulsion has somewhat shaken his faith in the present applicability of the “one people, one law” maxim to the Government of India. He acknow-

ledges that the troubles of 1857 fell very far short of a national insurrection against the British ; still, there was much to show that Christian, Mussulman, and Hindoo have not become one people. The rising was not universal ; still, as far as it went, it was a rising upon the Christian. It cannot be forgotten that what the British had to struggle against was an attempt at extermination, of a character sufficiently extensive and formidable to give rise to serious speculation how far it may be necessary to the maintenance of the British in India as an *existing* race that they should continue to be a *ruling* race. One effect of our meditations on the mutinies has been to modify the views which we before entertained as to the propriety of extending the criminal jurisdiction of the Mofussil Courts over British-born subjects, at any rate to the extent of making it appear to us inexpedient that the British-born should be rendered amenable to criminal punishment by any Judge but one of the same extraction as himself. We think that it would be unwise and unsafe to accustom the turbulent classes of the population of India to the spectacle of a Native Magistrate passing sentence upon an European. The upper classes of natives might feel edified by the sight, discovering in it the evidence of the existence of paternal and even-handed government. But the mass would only recognise it as a proof of the degradation of the *Sahib-log*, and a sign prophetic of the fall of our rule. It would have the additional disadvantage of tending to keep alive the feeling of exasperation which the late disturbances have created in the bosoms of those who had to fight *pro aris et focis*. For these reasons we would limit the measure of reform to bringing the British residents in the interior under the criminal jurisdiction of the Covenanted Magistrate and Sessions Judge only, giving them also the privilege of appeal, not to the Nizamut Adawlut, as at present constituted, but to the Supreme Court. This would be a compromise, by a ready acceptance of which the British in the Mofussil might, we think, avoid the more sweeping reform with which they are threatened. Let them ask themselves whether the danger to an innocent man is more than imaginary from a change which would give him, in place of a trial by Jury, a rehearing both on fact and law before a bench constituted of three English Barristers. Let them also consider that, as respects the class of cases in which they are now subject to the Criminal Courts of the Mofussil, there would be a positive gain to them, by the appeal lying, not from Civil Servant to Civil Servant, but from Civil Servant to British Lawyer. Change, we believe, to be inevitable. It is true that the Legislative Council in Calcutta, sitting in Committee to consider the Code of Criminal Procedure

recommended by the Royal Commissioners above mentioned, has hesitated to act upon the principle which appeared to the same Council, sitting in 1857, too obvious to admit of discussion. On the occasion last mentioned both of the Judges of the Supreme Court who had seats in Council admitted that "the time for 'removing the exclusive privilege enjoyed by the British subjects, 'with respect to the trial of offence committed by them, and 'for making them amenable to the criminal jurisdiction of the 'Mofussil Courts, had now arrived." These were the words of the late Chief Justice in March 1857. May of the same year saw the first of the massacres which formed so fearfully a distinguishing feature of the Indian Mutinies, and the effect of which has been, in the judgment of Sir James Colville's successor, and of many other thinking men in India, to put back the hand on the dial of Indian Law Reform for the space of some degrees. So that when, on the 3rd of September last, the Legislative Council of India went into adjourned Committee on the proposed new Criminal Code, it was resolved both to continue the exemption of European British-born subjects from the jurisdiction of the Mofussil Courts, and to take away from the Native Magistrates the power of committing such subjects for trial. But will the effect be the same on the opinions of English Statesmen? We think not. No long interval after the arrival of the news of the extinction of the last embers of rebellion in India will bring forgetfulness of its horrors over the minds of those who are far from the scene of their perpetration, and safe from apprehension of their renewal. Again, will Parliamentary orators philosophically enunciate that "it is a necessary consequence of the admission 'of Europeans to place them on the same policy and under 'the same laws as the Natives," and the doubts of those who legislate under local influences will be derided and overruled. Change, we repeat, is, in our opinion, inevitable. To endeavor to guide rather than to resist it is the policy which we recommend. The fool curses fate, the wise man propitiates fortune.



ART. V.—*Ceylon : an Account of the Island, Physical, Historical, and Topographical.* By Sir EMERSON TENNENT, L. L. D., &c.

NEXT to our desire to gain all possible information concerning the things of to-day, is the anxiety we feel touching the affairs of the past. Not unfrequently, indeed, we attach more importance to the dim and uncertain records of antiquity than to the plain and veritable annals of our own period. Our natural love of the romantic and the wonderful goes far to account for this, and we have long ceased to feel surprised that fossil remains, curious inscriptions, and crumbling ruins should frequently attract more notice and cause more excitement than any event of the present day, however important.

The volume before us is perhaps more replete with antiquarian wealth, more sparkling with rare gems plucked from the depths of the past, than any book that has appeared before the public since "Nineveh." Layard took the reading world by storm, and fairly bewildered his readers amidst labyrinthine chapters of the vast creation of an olden world. There is, however, this noteworthy difference that, whereas in the case of the Ninevite excavations, the world were fully prepared to hear strange and startling revelations concerning the departed glory of a once mighty empire, few indeed could have anticipated the romantic narrative unfolded by Sir Emerson Tennent touching the past greatness of a people now so little esteemed as the Singalese.

The voyager from the West, reaching Point de Galle by any one of the Peninsular and Oriental Steamers, cannot be otherwise than struck with the marvellous richness and beauty of the scenery that lies unfolded before his delighted gaze, contrasting so strongly with the sterile barrenness of Suez and Aden. The long line of bright green palms, waving gracefully to the breeze: the rich verdure of the foliage that crowds every nook and cranny on the shore: the beauty of the distant hills seen in the freshness of the early morn: the many gorgeous flowers that meet him at every turn on shore: all these may, will, make a deep and pleasurable impression on the mind of a traveller fresh from the Western World, and induce him to endorse the poetic title of the island, which somebody has called "the Eden of the eastern wave."

The motley crowd of strangely garbed Asiatics that jostles one on landing on that grassy shore: the dark frowning battlements of the ancient fort: the grim archway, with the quaint Dutch figures in stone over it: the grim Malay guard lounging beneath it: the pretty bay and the picturesque hill on one side, with

the fortification and light-house on the other, all help to lend attractions to a spot that is in every sense of the word welcome to the sea-weary voyager. Yet of all the thousands of travellers homewards and outwards, who have passed over the waters of that picturesque little bay, none have ever dreamt the strange story of the past revealed in the pages of this most entertaining and instructive book. Scriptural associations, remotest records of profane history, the legends of the *Arabian Nights Entertainments*, may be found blended with the early annals of "the utmost Indian Isle Taprobane." Where we now behold, on the arrival of each steamer from east or west, the busy throng of cunning Moors eager in the sale of their jewelled wares to the unsuspecting traveller—two thousand years ago might have been seen the Arab dealers from the Red Sea bartering with the enterprising traders of China aromatic drugs, gems, and pearls for silken goods, woollen cloths, carpets, golden vessels, &c.

There is perhaps more of historical interest attaching to the port of Galle than to any other harbour in the Eastern Seas. In modern times Galle was the mart of Portugal, and afterwards of Holland; and long before the flags of either nation had appeared in its waters, it was one of the entrepôts whence the Moorish traders of Malabar drew the productions of the remoter east, with which they supplied the Genoese and Venetians, who distributed them over the countries of the west. Galle was the "Kalah" at which the Arabians in the reign of Haroun Alraschid met the junks of the Chinese, and brought back gems, silks, and spices from Serendib to Bussorah. The Sabeans, centuries before, included Ceylon in the rich trade which they prosecuted with India, and Galle was probably the furthest point eastward ever reached by the Persians, by the Greeks of the lower Empire, by the Romans, and by the mariners of Berenice, in Egypt, under the Ptolemies. But an interest, deeper still, attaches to this portion of Ceylon, inasmuch as it seems more than probable that the long-sought locality of Tarshish may be found to be identical with that of Point de Galle.

Bochart was not the first who rejected the idea of Tarshish having been a Phœnician colony, situated at the mouth of the Guadalquivir,\* and intimated that Ophir must be sought for in the direction of India; but he was the first who conjectured that Ophir was Kondramalie, on the north-west of Ceylon, and that Tarshish must have been somewhere in the vicinity of Cape Camorin. His general inference was correct and

\* *Tennent's Ceylon*, Vol. I., Part IV., pages 444 and 445.

irresistible from the tenor of the sacred writings; but from want of topographical knowledge, Bochart was in error as to the actual localities. Gold is not to be found in Kondramalie; and Cory being neither an Island nor a place of trade, does not correspond to the requirements of Tarshish. Subsequent investigation has served to establish the claim of Malacca to be the golden land of Solomon, and Tarshish, which lay in the track between the Arabian Gulf and Ophir, is recognisable in the great emporium of Ceylon.

The ships intended for the voyage were built by Solomon at Ezion-Geber, on the shores of the Red Sea; the rowers coasted along the shores of Arabia and the Persian Gulf, headed by an east wind. Tarshish, the port for which they were bound, was in an island, governed by Kings, and carrying on an extensive foreign trade. The voyage occupied three years in going and returning from the Red Sea, and the cargoes brought home to Ezion-Geber consisted of gold and silver, ivory, apes, and peacocks. Gold could have been shipped at Galle from the vessels which brought it from Ophir; silver spread into plates, which is particularised by Jeremiah as an export of Tarshish, is one of the substances on which the sacred books of the Singalese are even now inscribed; ivory is found in Ceylon, and must have been both in abundant and full grown there before the discovery of gunpowder led to the wanton destruction of elephants; apes are indigenous to the Island, and pea-fowls are found there in numbers. It is very remarkable, too, that the terms by which these articles are designated in the Hebrew Scriptures are identical with the Tamil names, by which some of them are called in Ceylon to the present day: thus *tukeyim*, which is rendered "peacocks" in one version, may be recognised in *tokei*, the modern name for these birds; "*kapi*," apes, is the same in both languages; and the Sanskrit "*ibha*," ivory, is identical with the Tamil "*ibaeu*."

Thus, by geographical position, by indigenous productions, and by the fact of its having been from time immemorial the resort of merchant ships from Egypt, Arabia, and Persia, on the one side, and India, Java, and China on the other, Galle seems to present a combination of every particular or essential to determine the problem so long undecided in biblical dialectics, and to establish its own identity with the Tarshish of the sacred historians, the mart so long frequented by the ships of Tyre and Judea.

The well-known story of the mountain of loadstone, related in the adventures of the *Third Calendar* to the ladies of Bagdad, is closely connected with Ceylon, and the custom, which

has prevailed there from the most ancient times, of fastening together their ships and boats by means of wooden pegs and cords, no nails whatever entering into their construction. The reason for this custom is stated by Palladius, a Greek writer, to have been the existence of the loadstone mountain in the near vicinity of Ceylon. Palladius, in describing the Island says, that the magnetic rock is in the Maldives, and that ships coming within the sphere of its influence are irresistibly drawn towards it, and lose all power of progress, except in its direction. Hence (he adds,) it is essential that vessels sailing for Ceylon should be fastened with wooden instead of iron bolts. The strange story is likewise alluded to by Aristotle, Pliny, and Ptolemy, whilst Klaproth speaks of it as current amongst the old Chinese authors, who, however, placed the loadstone rock on the coast of Cochin-China.

Thus does one author link the stern realities of history with the picturesque fables of romance in his entertaining volumes. We are delighted with the rich panorama of the past that our author flings with so much artistic skill, and are tempted to wish that we were more liberally treated with the historic revelations of the *Mahawanso* and the *Rajavale*. There is, however, sufficient in these volumes to portray the Taprobane of the past,—the Ceylon of yore, in colors vivid enough to make up as striking pictures of an Empire laid in the dust as ever fell from human pen.

The contrast between the pyramids of Gizeh and the mud hovels on the Nile, is not greater than that between the ruined cities of Ceylon and the scattered clumps of huts between the palm topes of to-day. Until within the last few years the extent and character of most of these vestiges of palatial cities were unknown. Hidden amidst the thickest and most unhealthy jungle, sheltered by thorns and brambles of gigantic size, travellers have visited but the outskirts of the largest of these ruins, "Palanarva:" it was left for Sir Emerson Tennent to fully explore its vastness, and describe its greatness and its beauty. Until the character of these were made known, the colossal tanks and works of irrigation, still partly standing, wonderful amidst their ruins, were a riddle. Our knowledge of the one is a key to the explanation of the other, and we now know where dwelt the multitudes for whom and by whom these titanic works were executed. A single bund of such gigantic proportions, as to be estimated as having occupied a million of laborers for ten years, is a fitting companion to a city measuring several miles in circumference: and although we are not prepared to place implicit faith in the statements in the *Rajavale*, which make mention of nearly a million and a half

of villages as existing in Ceylon in the fourteenth century, we can readily concede that, when the Island was in the zenith of its prosperity, the population of Ceylon may have been fully ten times as great as it is at the present time, and amounted to fifteen millions. The huge irrigation works of which we speak are not isolated instances of a great combination of skill and labor, but exist, though not all of such colossal proportions, in hundreds scattered over every district of the western part of the Island.

When England was held by Roman soldiers, ere the strong hand of the Saxons had torn the semi-barbarous Island from the grasp of the Centurion, when London was composed of a few hundred mud huts, and when the name of Britons was associated with that of slaves, Ceylon was ruled by a race of monarchs whose life was one round of regal splendour, equalled only by that of Imperial Rome; whose palaces and temples would have borne comparison with those of the Eternal City; and whose vast earth-works fling far into the shade anything to be found in the Western World.

It is true that, in the present day, we meet with no remains of domestic architecture amidst the "round cities of Ceylon;" the royal palaces, temples, and mountains are all that remain to us in greater or less preservation, which is explained by the circumstances that the people—the laity—of whatever rank, were not permitted to employ stone or fire-burnt bricks in the construction of their dwellings—a distinction reserved for royalty and the priesthood: the people were forbidden to construct their houses of any better material than sun-baked-earth,\* a practice which continued to the latest periods, and nothing struck the British Army of occupation with more surprise, on entering the city of Kandy after its capture in 1815, than to find the palaces and temples alone constructed of stone, whilst the private dwellings were invariably formed of mud and thatch. Under these circumstances we must cease to be surprised that, in the present day, we discover no traces of the private dwellings of the people of those remote times; since no material would be sooner swept away, when once exposed to the ravages of a tropical climate, than that employed by the Singalese laity of Palanarva and Anaradjahpoora.

Enough, however, remains of their priestly and kingly structures to bear testimony to the wealth and power of the race then dominant in Ceylon, the descriptions of which, as given us by Sir Emerson Tennent, and read by the historic light of the *Mahawanso*, are full, complete, and conclusive.

\* *Tennent's Ceylon*, Vol. I., Part IV., page 478.

Although Anaradjahpoora was the original capital of the monarchs of Ceylon to as late a period as the close of the eighth century, when Mahindo first finally abandoned that city for its more northern rival, Palanarva, nevertheless the latter city had attained a considerable degree of splendour long anterior to that date. Stretching along the borders of the beautiful Lake "Topa-weva," the desolate ruins of this ancient capital strike the beholder even in the present day with wonder and admiration, and enable him to form some conception of what the gorgeous city must have been in all its noon-tide splendour, when its myriads of stately buildings, with their gilded cupolas, were reflected in the still expanse of the waters, or embowered in the dense foliage of the surrounding forests.

In the most palmy days of Palanarva, the city and its suburbs extended to a distance of 30 miles in length, by 4 in breadth.\* It was surrounded by a lofty and substantial wall pierced with many gates, and within it stood a citadel of no mean capacity, capable of withstanding a long siege.

Great outlay appears to have been made by several sovereigns, but specially by the Queen of the great Prakrama, upon enlarging and beautifying the Lake of "*Topa-weva*;" and it was on the border of one side of this vast sheet of water that the favorite palace of the Singalese Kings was erected, whose gilded roofs and lofty towers, whose noble halls and spacious terraces are the theme of many parts of the *Mahawanso*.

The most extensive palace of the king was, however, further north, and nearly in the centre of the city. Here, after traversing many wide and well-made streets, filled with the bazaars of traders and long rows of private dwellings, with Wihares and priestly buildings at frequent intervals, stood the "seven-storied house," as it is called in the historic records, containing four thousand rooms, and supported by many hundreds of pillars.

In front of this royal residence lies an enormous carved stone, known as the "*Gal Pota*" or "Stone Book," from its great resemblance to a volume of Singalese olas. This huge stone block is twenty-six feet in length, by fully four in breadth and two in thickness; upon its face is an inscription in which may be read;—"This engraved stone is the one which the strong men, 'of the King Nissanga brought from the mountain of Mahintelai, 'at Anaradjahpoora;" whilst along its edges are copious carvings of a rich character, such as may be found on some of the Buddhistical edifices still existing, amongst which are seen, in great profusion, the "Hanza" or sacred Goose of the Buddhists.

\* *Tennent's Ceylon*, Vol. II., Part X., page 584.

The situation and position of the Royal Palace of Palanarva are precisely such as might have been looked for under the circumstances. It was to be expected that monarchs who regarded the priestly order with so much veneration, and listened to their words as the direct oracles of Buddha himself, should give prominence and position to every thing that had reference to them. Hence we find that not only were the Buddhist priests alone entitled to the royal distinction of dwelling in edifices of stone as richly ornamented as the Palaces themselves, but their abodes were in the immediate vicinity of the regal dwellings, that is to say, in the more silent portions of the city. There is nothing on record to warrant us in believing that even the Singalese nobles and chiefs were allowed the priestly privilege of stone walls: on the contrary, the customs in this respect, which do not appear to have undergone any change during many centuries, were found to be as described by the British on their victorious entry into Kandy in 1815. The sole difference that appeared to exist between the chiefs and the people consisted in the greater extent of their dwellings, which generally comprised a range extending round four sides of a square with narrow verandahs more or less ornamented, but still of no more noble material than the hut of the meanest subject.

That the sovereigns of Ceylon should have dwelt amidst cities of mud and thatch, in rude barbaric pomp, surrounded by the utmost splendour that could be allowed in those ages, need scarcely be matter for surprise, or call for any comment from us. The king and the priest stood exalted far above the nation; between them and the people there was a vast barrier; even the acknowledged chiefs of the community were scarcely raised above the great common herd, and could boast of none of the social privileges accorded them in other countries. Amidst the numberless ruins of ancient edifices in Ceylon, more or less perfect as regards their structure and ornamentation, there is no single vestige of any buildings, but such as were the abodes of the priesthood or the sovereign.

Of these two classes of structures, it would not perhaps be very easy to determine which were the more elegant, more extensive, or more elaborately ornamented, though there can be no question that the priesthood monopolised by far the greater number in both Palanarva and Anaradjahpoora. Not merely in the vast piles of buildings sacred to the worship of Buddha was the national skill, industry, and wealth brought into full requisition, but the utmost resources of the people were lavished upon the edifices devoted to the use of the priesthood. On the ruins of one of these are plainly visible, at the present day, a long list of inscriptions in stone, containing an

enumeration of the establishment of the monastery to which it pertained.

According to this there were dwelling in that one building a thousand priests, and the inscription goes on to recount the number of cooks, water-carriers, grass-cutters, sweepers, &c., &c., belonging to the establishment, the nature of which may indeed be gathered from the multitude of stone and brick ruins scattered about on every side.

According to the early annals of Ceylon the construction of dwellings for the devotees of Buddha preceded the erection of temples for his worship. During the first ages of Buddhism the priests usually selected a cave in some secluded spot cut from the solid rock, many of which exist to the present day. As the number of priests multiplied, it became necessary to provide shelter for them more readily constructed and placed together in the near vicinity of the principal dagobas. These were at first huts of rudest construction, covered with thatch; by degrees they associated a more substantial form and character, until at length they grew to the dimensions and solidity of which we have already spoken.

But if the priests were nobly housed, how much more so were the god himself and the sacred relics of his faith: Anaradjahpoora rivals Palanarva in the number, the extent, and the beauty of its sacred edifices. Not only do the ruins, still in good preservation, bear testimony to the magnificence of these temples, not only do the sacred annals of the Singalese,—*Mahavanso* and the *Rajavale*—dwell upon the character of the ancient dagobas of Ceylon, but the works of Chinese travellers, especially those of Fa Hian, bear ample testimony to the character, style, and extent of the ancient capitals of Ceylon, and of their sacred buildings. The latter writer says, when speaking of Anaradjahpoora:—"The city is the residence 'of many magistrates, grandees, and foreign merchants; the 'mansions beautiful, the public buildings richly adorned, the 'streets and highways straight and level, and houses for preaching built at every thoroughfare." The *Leang-shu*, a Chinese history of the Leang Dynasty, written between A. D. 507—509, describing the cities of Ceylon at that period, says:—"The 'houses had upper stories, the walls were built of brick and 'secured for double gates."

Fa Hian, in alluding to the extensive works at *Mahintelai*, tells us that this lofty and precipitous mountain is situated about 8 miles to the north-east of Anaradjahpoora, but connected with the ancient city, in the time of the kings, by one continuous street, along which were conducted the solemn processions of the priests. The ascent to the summit is



effected by series of stone steps, about two thousand in number, winding past the ruins of former buildings, temples, dagobas, and shrines; and on the loftiest peak, which commands a view over the forest country beneath to the very verge of the horizon, there exists one of those prodigious structures of brick-work, under which is deposited a sainted relic of Buddha, a hair which grew on a mole between his eyebrows. With such veneration have the Singalese been accustomed to regard this sacred mountain, that every crag has some tradition, and every rock has been scarped into sites for religious buildings, amidst the ruins of which are to be traced the fragments of broken statues, and inscriptions in the Nagri character, the most ancient in which the dialect of Pali has been written.

Mahintelai is undoubtedly the most ancient scene of mountain worship in Ceylon. Venerated by the Singalese, ere Gotama impressed his footstep on the summit of Adam's Peak, its highest point was known in the sacred legends as the cliff of Ambatthalo, on which Mahindo alighted when arriving in Ceylon to establish the religion of Buddha; it was to a spot near the summit that the king was led to follow a *deco*, under the form of an elk, when he encountered the great apostle, and became his first convert; here it was that Mahindo died, and upon this holy hill, his disciples, in remembrance of his virtues, bestowed the name of their divine teacher. On a small plateau near the top the dwellings of the priests and the principal buildings are grouped round the Ambustella Dagoba, which marks the spot whercon occurred the interview between Mahindo and his royal convert Devenipitatisa. Unlike the generality of such monuments, the Ambustella is built of stone, instead of brick, on a terrace encircled by octagonal pillars, the capitals of which are ornamented by carvings of the sacred goose. Close beside it is a broken statue of the pious monarch. The cells are still remaining, which, according to the *Mahawanso*, Devenipitatisa caused to be hollowed in the rocks, and near them is the Nagasandhi tank made for the priesthood by king Aggrabadhi, A. D. 589. Thence the last flight of steps leads to the summit of Ambatthalo, crowned by the Etwhihare Dagoba, a semi-circular pile of brick-work of one hundred feet high, which enshrines a single hair from the forehead of Buddha. This remarkable structure has stood for upwards of eighteen centuries. It was built by Baatiya Raja about the first year of the Christian era, and the *Mahawanso* relates that, on its completion, the king caused it to be enveloped in a jewelled covering ornamented with pearls, and spread a foot carpet from Mahintelai to Anaradjahpoora, that pilgrims might proceed all the

way with unwashed feet. The rock in many places bears inscriptions, recording the munificence of the sovereigns of Ceylon, and the ground is strewn with the fragments of broken carved-work and the debris of ruined buildings. On the face of the cliff, a ledge of granite, artificially levelled, is pointed out as "the bed of Mahindo;" from which a view of extraordinary beauty extends over an expanse of foliage that stretches to the verge of the horizon. Towering above this ocean of verdure are the gigantic dagobas of Anaradjahpoora, whose artificial lakes lie glittering in the sunbeams below; and, dim in the distance, is descried the sacred rock of Dambool, and the mysterious summit of the Ritta-galla mountain.\*

The road leading from the base of Mahintelai to Anaradjahpoora, a distance of 8 miles, is marked by as many traces of antiquity as the Appian way from Aricia to Rome. It passes between mouldering walls, by mounds where the grass imperfectly conceals the ruins beneath, and by fragments of fallen columns that mark the sites of perished monuments. It was the *Via Sacra* of the Buddhist hierarchy, along which they conducted processions led by their sovereigns from the temple at the capital to the peak of Ambatthalo. Though now overgrown with jungle and forest trees, it was traversed by chariots two thousand years ago, where the pious king sent his carriage to bring Mahindo to the sacred city.

The traveller of the present day may find ample testimony in the existing ruins, to the former magnificence of this ancient capital of the "Kingdom of Lions." Amidst the grass-grown streets are plainly visible the hundreds of massive stone pillars that formerly supported the great brazen Palace of Dutugainnum, said to have been elaborately ornamented, and in many parts covered with designs in copper.

Adjoining this edifice are still the ruins of the Place of Lamentation for the Royal family, an Assembly Hall for the Priests, and the Palace of the Peacock; the latter built in the first century of the Christian era.

Farther on may still be seen the crumbled remains of a dagoba built B. C. 161, by Dutugainnum, to commemorate the recovery of his kingdom. The "Dagoba of the Golden Dust" lies in ruins at no great distance from the Brazen Temple: it was begun by Dutugainnum one hundred and sixty years before the Christian era, and occupied twenty years in its construction. To-day its site is marked by a pile of masonry between one and two hundred feet in height, overgrown with lofty trees, but the remains of the massive terrace, which once supported the

\* *Tennent's Ceylon*, Vol. II., Part X., pages 606 and 607.

building and the fragments of colossal stone elephants, bear testimony to the original grandeur of the structure.

A loftier ruin, that of the *Abhayagiri*, is still extant, two hundred and forty feet in height, and is also upwards of two thousand years old, whilst near the intersection of two of the principal streets of the city were the lofty remains of the *Thepura-rama*, constructed for the reception of the collar-bone of Buddha, three centuries before the Christian era, and at one time said to have been covered with a coating of metal ornamented with gold.

Some idea may be formed of the vastness of these Buddhist ruins and of the stupendous magnitude of the original edifice, when it is stated that the solid mass of masonry comprised in one of them is not less than twenty millions of cubic feet, and according to our author would, in the present day, with all the appliances of modern art, occupy five hundred brick-layers for seven years, and involve an outlay of fully a million sterling. The materials, he tells us, are sufficient for the construction of streets each half a mile in length, or would form a wall one foot in thickness and ten feet in height, reaching from London to Edinburgh.\*

The royal palaces of Anaradjahpoora and Palanarva were all more or less on a gigantic scale. The first that are mentioned in the *Mahawanso* are simply said to have contained many apartments; the date of these was four hundred years before the Christian era. Within two centuries of that period, however, arose the lofty *Lohapasada*, a palace of vast extent, according to the *Mahawanso*, the work of King Dutugainnum, having a quadrangular court one hundred cubic feet square, and a thousand dormitories. The *Sat-mal-pasado* or "seven storied-palace" of Prakrama I. exceeded this again in its extent and magnificence, being, according to the *Mahawanso*, "seven stories high, consisting of five thousand rooms lined with hundreds of stone columns and outer halls of an oval shape, with large and small gates, stair-cases, and glittering walls."†

The vast extent of ruins on the site of the two ancient capitals of Ceylon, many in excellent preservation, but the greater portion in confused heaps of brick-work and masonry scattered for many miles around, bear witness to the statements to be found in the *Singalese Annals*. We need no longer doubt that in these periods the monarchs of Ceylon ruled over a numerous race, possessed of skill in many matters that are now utterly lost to their descendants. Whatever wealth was

\* Tennent's *Ceylon*, Vol. II., Part X., page 623.

† *Mahawanso*, Chapter LXXII.

possessed by the nation in those remote days, was no doubt in the hands of the sovereign and the priesthood: there is no record to show that the people or their chiefs possessed wealth beyond such as might be represented by land and cattle. The foreign commerce of that early period was scarcely shared in by the Singalese, for, although there is every reason for believing that the barter carried on between the Arabs and the Chinese at the ports of the Island was of considerable value, the natives of the country partook but to a small extent of its advantages. Always averse to the sea, the Singalese have never ventured upon shipboard, and such vessels as were at times in the possession of the Singalese monarchs were manned entirely by strangers.

The articles of Ceylon produce exported from the Island in the period under notice consisted of natural productions, aromatic drugs, gems, pearls, and shells, whilst the imports were gold cloth, frankincense, sandal-wood, silk, vermilion, carpets, slaves, chariots, and horses. From the above list of imported articles, it is evident that the people derived no advantage from such a commerce, as they were all for kingly or priestly use.

There was nevertheless a considerable internal trade carried on, to which allusion is constantly made in the sacred books of the Island. We are there told that two centuries before the Christian era a visitor to Anaradjahpoora purchased aromatic drugs in the bazaars and departed by the northern gate, and that king Mahanago ranged shops on each side of the streets of the capital.\* Further, that the country was traversed by caravans conveying merchandise, and that carts were employed between the capital and the country about Adam's Peak, bringing saffron and ginger, from which it is evident that roads must have existed long before the Christian era.

The student of Ceylon history may, at first, find it difficult to reconcile the past with the present,—to imagine that Ceylon of yore and the Ceylon of to-day are indeed one and the same. The grandeur, extent, and population of her ancient cities, the industry and intelligence of her numerous people excite our wonder and, perhaps, some doubts with it. But if we pursue the inquiry still further, if we compare the vestiges of the ancient palaces and temples with the ruins of their great works of irrigation, we shall be able at once to detect the truthfulness of those ancient records which relate the deeds and progress of the Singalese monarchs and their people.

Prominent amongst the great works constructed for the supply and retention of water is the Giants' Tank, a vast

\* *Mahawanso*, page 138.

embankment, extending even in the present day, for more than 15 miles in a straight line, the retaining bund or earth-work being three hundred feet broad at the base. The area of the water this was intended to collect and preserve would have been nearly equal, it is said, to that of the Lake of Geneva. At present the bed of the tank forms the site of ten other populous villages, besides eight others that have been deserted. There is still in excellent preservation an immense causeway of cut granite, two hundred and fifty yards in length, and upwards of fifteen feet high, intended to divert the waters of the Malwatty-oya into the Giants' Tank, but it was never completed, and recent surveys have shown that, owing to an error in the original level, the channel could not have served the purpose for which it was intended. The whole undertaking appears to have been suddenly abandoned, and no record preserved of those engaged in the abortive task.

Another of these famous vestiges of ancient industry in Ceylon is the Kalaweva Tank, said to have been the most stupendous work of the kind. It was formed by King Datasena, about A. D. 460, by throwing an embankment across the Kalaoya, flowing from Dambool to Calpentyne. The area submerged was more than 40 miles in circumference at a distance of 20 miles from the bund across the river, the water being conveyed to it by means of a canal: in the opposite direction another canal extended for 60 miles, supplying Anaradjahpoora with water. The retaining bund of this vast tank is 12 miles long, and the spill-water formed of hammered granite is said, by Turnour, in a note to his translation of the *Mahawanso*, to have been one of the most stupendous monuments of misapplied human labor in the Island, for the superfluous waters, instead of escaping by the intended overfall, burst the enormous embankment, and the tank was rendered useless. This accident took place at a period so remote, that the once vast lake is thickly covered with huge forest trees, which extend even to the topmost summit of the long embankment.\*

An account of Ceylon would be imperfect without some notice of one of its greatest antiquities; the Bo Tree of Anaradjahpoora is the oldest historical tree in the world. The *Jaya Sri Maha Bodhi Wahancee*, or "the Victorious, Illustrious Supreme Lord, the sacred Bo Tree," as it is termed in the oriental language of the *Mahawanso*, was planted 288 years before the Christian era, consequently it is at the present time 2,147 years old, or more than a century older than the most ancient trees of which we possess any record. By its side the

\* Tennent's Ceylon, Vol. II., Part X., page 602.

famous oak tree of Ellerslie is the merest sapling, and the Conqueror's Oak in Windsor Forest comparatively of modern date; while the Olive in the garden of Gethsemane, and the Cypress of Soma in Lombardy, the latter dating back to the period of Julius Cæsar, are both junior to the famed Bo Tree of Anaradjahpoora.

There is, it is true, an imaginary antiquity attaching to some trees, such as the chesnut of Mount Etna, and the baobab of Senegal, but entirely upon supposititious grounds, there being nothing beyond the merest conjectures relating to their ages, whereas the historians of Ceylon hand us down a series of chronological passages, detailing the continued existence of this identical tree through a succession of generations down to the present time.

The planting of this venerated tree is recorded with great minuteness in the pages of the *Mahavamsa*, where we are told that it was a branch of the identical tree under which Gotama Buddha reclined at Uruwelaya, when he underwent his apotheosis.\* It need not be matter for surprise, therefore, that the Buddhists of the present day hold this tree in the highest veneration, a reverence, indeed, which has been shared in by their ancestors for ages past. Pilgrims visit the tree from all parts of Ceylon, and esteem it a privilege to be permitted to remove a handful of its fallen leaves, which they treasure with the same scrupulous care that was wont to be shown to a relic from Jerusalem by the Crusaders of the middle ages. Buddhism is to-day what it was a thousand years since; not more elevated certainly in the persons of its followers, for whom it can accomplish as little in this world perhaps as in the next.

Taking the book, we have thus rapidly glanced at, as a mirror of the past history of the Island and its people, it must be considered the most satisfactory production that has yet appeared. We could have wished to have had more details concerning the early European rule in Ceylon, but with that one exception the work leaves us nothing to desire concerning the past.

We may, on some future occasion, return to these volumes, and glean from them such facts as have reference to the more recent progress of the colony—a period full of suggestive teachings for the political economist and the philanthropist of any country.

\* *Tennent's Ceylon*, Part X., page 614.

ART. VI.- *-On Liberty.* By JOHN STUART MILL. London. Parker. 1859.

ALTHOUGH this book has hardly been a year before the public, it has already received the assent of most thinking men at home. It is not easy to describe it more briefly than by saying that it is the Euclid of Utilitarianism; a progressive demonstration of the Law of Bentham—also perhaps that of the Gospel—that the object of civilisation and the basis\* of moral right is “the greatest happiness of the greatest number.” Sneered at and stigmatised by opponents who (let us hope) did not understand what it meant, this sublime doctrine of love to one’s neighbor stands out in the cool light of Mr. Mill’s style, so as to render any illustration from our humbler labors a work of supererogation.

Starting, therefore, on the supposition that the principle is no longer contested, we propose to apply a few pages to a consideration of one or two Indian problems, more or less perplexed; and shall endeavor to show that a reference to Mr. Mill’s great principle will facilitate their solution. At first sight it may appear to be a dangerous task to speak of liberty in regard to a country which we have to rule by pure despotism. It is true that the necessities, if not the opinions, of the Whig Statesmen, who have had most to do with Indian affairs since Lord W. Bentinck, have forced them to liberalize institutions from time to time, and to conduct their despotism, as it has been said, upon revolutionary principles.\* But this sort of thing came to a speedy termination in 1857, to the events of which period it had not a little contributed; and no one can say that the laws of that or the following year erred on the side of a too squeamish liberality.

The object, then, of these pages must be separated clearly from any wish to return to that state of things which existed “before the flood,” in those antediluvian days, when monsters possessed the earth in the form of brave and loyal sepoys, intelligent native gentlemen, and radical-reforming despots. It is not the extent to which liberty can be pushed, but rather the limits within which it ought, for the present, to be restricted, that we must consider in reference to Liberty in British India.

Mr. Mill’s book is divided into five chapters.

The first, or introductory, opens the question of the relations between liberty and authority in the history of the past. In primitive states of society the object of patriotism was to set

\* See *Calcutta Review*, Vol. XXXI., pp. 474 et seq.

bounds to the power of the Government, either by the establishment of rights—such as those provided for in *Magna Charta*—or by the devising of constitutional checks, as was done in England by slow degrees, and perhaps not completed till after the Revolution. The first, the providing of constitutional rights, based on an understood possibility of insurrection, is the present condition of British India. From the days of Lord Cornwallis, over a period of sixty-seven years, the foreigners who ruled the gradually expanding Empire, voluntarily conferred upon its population many privileges not admitted in native kingdoms, (and not always possessing any, even unrecognised, existence there,) but the conferring of which was thought necessary, from time to time, to keep our subjects in a state of peace, content, and order.

At the stage of constitutional checks we have not yet arrived ; though many think that the time for their initiation is at hand.

With the third stage, at least, we can have no concern : this is when the ruled, instead of being in opposition to their rulers, and constantly on the watch against their encroachments, succeed in organising a Government of delegates, to whom they give the whole of their own collective weight. This form of polity, which exists in its completest known character in the United States, is that also towards which the institutions of England seem fast drifting ; and it contains, as Mr. Mill well shows, an element most menacing to the liberty of the individual, from which the most irresponsible despotisms are exempt. The only Indian adaptation of such a danger that we can offer as food for reflection, is as between the Government and the White Settler, and in the state of feeling which showed itself amongst Europeans towards the Natives during the past three years ; when it was, perhaps, happy for our honor as a race that we (the English in India) were not self-governed. But this is dangerous ground, and we pass on.

Chapter II. introduces us to matter more applicable to our present circumstances ; the liberty of thought and discussion ; including, necessarily, that of the Press—a form of liberty which, (as Mr. Mill hints,) is more readily acquiesced in than understood. If an examination of the grounds on which freedom of speech and writing really rests should succeed in leading us to decide to what extent it can safely exist, or what are the largest limits we are justified in imposing upon it in British India, our studies from this book will not be thrown away, even should they lead to no further advantage.

Now, Mr. Mill assumes that the right of the public to express opinions opposed to those of Government is universally admitted, with one exception, to which we shall refer a little lower. But he says, that in England we are in danger of injuring individual liberty by preventing the expression of opinions which are



opposed to those of the public; and he shows, with great success, that the coercion of discussion by the public differs not in principle from a similar action on the part of a despotism. Thus, to take a familiar instance, a member of the Anglo-Indian community would have undergone much small persecution in this country had he written, or openly talked in defence of the sepoys during the late outbreak; yet Mr. Mill shows that he ought to have been allowed full liberty for the two-fold reason that, if right, (and even such a line of argument might have contained a portion of truth,) the public who stifle it lose the opportunity of correcting their own views; while, if it were wrong, (or as far as it was wrong,) they lose the clearer and livelier perception of truth produced by its collision with error.

But we said above, that Mr. Mill imputes to the friends of freedom one exception in their general recognition of the impropriety of State-interference with the expression of political sentiments opposed to its policy. He says, that a panic might, in England, lead to the revival of the penal laws against free writing; and, in a note, refers to the prosecutions which arose out of the attempt of Orsini on the French Emperor's life. He says, that these, in so far as they were directed against the abstract enunciation of the doctrine that tyrannicide was lawful, were ill-judged. Taken in its strongest sense, we might fancy Mr. Mill's logic leading to strange conclusions. Even were there a panic in England, on the subject of invasion, (as perhaps there was for a short time towards the end of last year,) would Mr. Mill object to the prosecution of an Englishman, who should be known to have acted as Marlborough is accused of acting by Macaulay, gone to the Emperor and pointed out weak spots for a landing, or written to him that, after a certain date, the Channel Fleet would be absent from a certain part of the narrow seas? And, to put the case home to our readers, could a native of India have claimed immunity if, in 1857, he had gone about the streets of Calcutta with a green flag, stirring up the people to rise and massacre the inhabitants of Chowringhee? Apparently Mr. Mill thinks he might if no overt act had followed; but surely this would be to measure his crime by a *post eventum* standard not admissible in matters of police.

If it be merely the object to show that neither the State, nor the majority of the public, has a right to prevent the free expression of opinion on open questions, then we would apply the liberty of the Press to India; but the fact of an overt act following or not following is no fair test of the danger to society of certain speeches or writings. "The greatest happiness of the greatest number" would be often imperilled in a country like this—supposing always the existence of the British Government

to be a benefit to the natives—and, therefore, it may follow that it is the duty of that Government to exercise a surveillance over the Native Press.

It must never be forgotten that, if the British or European element in this country is to be a public, (*i. e.*, anything more than a mere knot of State-functionaries,) many specialties must distinguish the legislation which concerns them from the laws that are framed for the natives. The attempt to include both classes under the same provisions, as regards the bearing or possessing of arms, failed as completely as did a similar policy with regard to the Press: and though there are obvious flaws in the working of the European Press of India, they proved from the hostility of Government rather than from its spirit of *laissez-faire*, like those of the Native Press.

For instance, it has been often stated, that the Indian newspapers are scurrilous. This we think is quite untrue, but of course it must have a foundation. The foundation we hold to be just this:—The conduct of a public officer is commented upon generally in a letter which the dearth of interesting matter induces the Editor to admit as an indulgence to the love of scandal and personal gossip inseparable from the nature of his constituency. Unfortunately the regulations, and, still stronger, the etiquette of the Service alike prevent the officer so attacked from bringing forward his side of the story, either directly or otherwise; and thus the chief value of publicity—discussion—is foregone, and nothing is left but the bitterness caused by estrangement and contempt felt, reciprocally, by the services and the public.

Again, it is said that the papers are dull, flippant, and purposeless. These charges, [with modifications and exceptions, probably contain a *tant soit peu* of truth. Indian journals are about as interesting, it may be, as provincial journals in England; but, considering the culture, the social position, and official or business habits of the European public in India, they ought to be more than that. The fault here again is probably rather to be found with the Government, which withholds from them hundreds and thousands of important facts and documents which see the light for the first time in England, where they are not cared for, and are then copied by our papers when their immediate interest has passed away.

At page 57 occurs a note, directly bearing on a vital question of Indian liberty. After denouncing the error and crime of religious persecution in Europe, the author remarks:—

“Ample warning may be drawn from the large infusion of the ‘passions of a persecutor, which mingled with the general display of the worst parts of our national character on the occasion of the Sepoy Insurrection. The ravings of fanatics or charlatans

‘from the pulpit may be unworthy of notice; but the heads of the Evangelical party have announced as their principle, for the government of Hindoos and Mahomedans, that no schools be supported by public money in which the Bible is not taught, and, by necessary consequence, that no public employment be given to any but real or pretended Christians.’

An Under-Secretary of State, in a speech delivered to his constituents on the 12th of November 1857, is reported to have said:—“Toleration of their faith,” (the faith of a hundred millions of British subjects,) “the superstition which they called religion, by the British Government, had had the effect of retarding the ascendancy of the British name, and preventing the salutary growth of Christianity. Toleration was the great corner-stone of the religious liberties of this country; but do not let them abuse that precious word toleration. As he understood it, it meant the complete liberty to all, freedom of worship among Christians, who worshipped upon the same foundation. It meant toleration of all sects and denominations of Christians who believed in the one mediation. I desire to call attention to the fact, that a man who has been deemed fit to fill a high office in the Government of this country, under a liberal Ministry, maintains the doctrine that all who do not believe in the divinity of Christ are beyond the pale of toleration. Who, after this imbecile display, can indulge the illusion that religious persecution has passed away, never to return?”

We feel unwilling to add a word to this eloquent disclaimer; but as some sincere and impulsive persons think that they have the high authority of Sir John Lawrence, for holding that, on a religious question, considerations of philosophical truth are out of place, we would just mention that the purely theological aspect of this, or any other, question, is equally foreign to a philosophical argument; but that, nevertheless, if Christianity be true, it cannot be at variance with any other form of truth. And in point of fact the Founder of Christianity himself said—“My kingdom is not of this world;” and the very section of the Christian public who are most vehement in favor of Government support to the propagation of their opinions, are headed by the opponents of Erastianism, most of whom have sundered from their brethren of the Scotch Kirk, not on any point of doctrine, but simply because they resented all shadow of State interference. To such therefore we would say, great is truth and it will prevail; but do not attempt to hurry its progress by the weapons of Cæsar, for they prove nothing; on the contrary, there is a presumption almost amounting to certainty that the only results of physical

enforcement of opinions will be violent antipathy on the part of the bold, and hypocritical assent on the part of the mean.

It is obvious that the Roman Catholics of the middle-ages must have been at least as earnest and sincere as those of the present day. From these latter we are proud to differ; we look upon our Protestantism as upon a sacred birthright, the very centre of our liberties. Yet where had our Protestantism been, had the majority of the Princes of Luther's time been able to carry out the principles referred to in the latter part of Mr. Mill's remarks above quoted? Luther's opinions, we say, were true, those of the Indian Moslems are not: granted, but what then? Is the test of truth in our opinions to be the strength of the party professing? Because in that case we must admit that truth changes when that party loses its strength; whereas truth is admitted to be eternal. Judged by this test, the pro-slavery doctrines of the Southern States of the Union are true, *and will continue to be so, until their opponents become stronger than those who profess them.* There is then but one justification, and that an immoral one, for showing favor to Christianity, or discountenancing any of the indigenous creeds. The British Government might say:—Hindooism and Islam have alike shown that they are dangerous forms of opinion, affording no guarantee for good conduct, but directly tending to cause rebellion and cruelty; while to make men outwardly Christians by the hope of State-reward would be to render all who became such aliens to the mass of their countrymen, and devote them, in self-defence, to our cause. But this is a crooked policy at best; and public feeling is at any rate too sound at the present day to support any British rulers in doing evil that good may come. Such Machiavelism is not consistent with the love of one's neighbor, for the assumption of that species of power, if generally applied, would not conduce to the greatest happiness of the greatest number. Besides, even in practice in this special case, it would be liable to fail. If the natives of India be as faithless as is generally supposed, what is to prevent them from making a tacit counter-arrangement by which aspirants for the favor of the ruling power and for Government employ should be allowed to bow down in the house of Rimmon, or should arrange among themselves to regard baptism as a Parliamentary form?

The whole passage from page 71 to page 78 is too long for extract, but it would be a gross injury to offer an abridgement: the reader should study it, and he will learn what will be the value of Christianity to the people of India if they can but be persuaded to adopt it *on conviction*. For many generations they would be better Christians, as a mass, than we, who, blinded by the "mist of familiarity," accept many a sublime maxim in

theory which we ignore in practice. Meanwhile, our own Christianity gains by being constantly maintained in an active and controversial condition ; forced to examine into the grounds of our faith, we must, if honest, become either firm believers or sincere sceptics ; there can be but little of that worthless conventional religion which, at home, covers so much wickedness with Pharisaic white-wash ; and hence it probably results that there is more good-feeling, charity, and freedom from crime among the White population of India than exists, proportionately, among their brethren in England. This may seem a paradoxical assertion ; but we appeal to facts. Let any one look at the tales of fraud, barbarity, and lust, with which every HOME NEWS is stored ; at the social hauteur, and the neglect of the poor which those who know England know to prevail there. At the case—for instance—of Sarah Dyer, the dress-maker, reduced to shop-lifting, because her well-to-do customers would not pay her bills. We are not free from sin, God knows, but there is no such chronicle sent back by the Homeward Mail ; the principal record of the European public being very commonly a handsome subscription-list for some object, Indian or Imperial, of alms, or of hero-worship, of church-building, or of Mission-extension. Where is the case of distress that has been brought in vain before the Indian public ; still more constant are the good deeds done in obscurity or in secret, the Dispensary or Relief Society kept up for the poorer natives neglected by their own countrymen ; the sums of money lent or forgiven amongst each other ; a hospitality ever open ; a total freedom from that form of pride which Mr. Thackeray has made English by his “ Book of Snobs.”

Chapter IV. treats of the limits to the authority of society over the individual, and is full of pregnant matter for English readers.

Among the natives of this country the system of caste has so strongly circumscribed the liberty of the individual, and is so cheerfully acquiesced in by those immediately affected, that it hardly seems worth while to point out its inconveniences. But it is curious to observe the apparent anomalies introduced into a system like Mr. Mill's by this kind of specialty in Asiatic life, where a man's minutest actions are strictly controlled by the opinion of the only society that is open to him, which possesses more sanctions than Freemasonry without the voluntary character of that institution, (inasmuch as a Hindoo cannot choose whether he will join the caste into which he is born, unless he is prepared to become, literally, an outcast) ; it may possibly be the duty of the Government to step in to the assistance of the individual, and to protect him, as far as it can, against the oppression of his

relations and friends. Accordingly, we hear a good deal about "doing away with caste," and though that is not at present possible, it would be no infraction of liberty. Meanwhile, the State can ignore it far more than is now done. So strong is the feeling among the natives that the answer to a question "who are you?" is not, as in Europe, "A B, of such and such a profession," but, "I am a Brahmin, or a Bunya" (or whatever the case may be); and the permanent loss of caste carries with it, according to Indian usage, the loss of property. With this latter penalty the Legislature has most righteously interfered; but there would be nothing illiberal in going a step farther; in forbidding public officers to enter caste in descriptive rolls, for instance, or in framing rules for the Native Army, which would require of the sepoys duties which no high caste man could perform without being excommunicated by his brethren. Whether such a course would be expedient, is foreign to the purpose of the present enquiry, which is only concerning liberty; a consideration of the bounds with which an intelligent but foreign despotism ought to content itself in ruling Asiatics. And it is on this ground that thinking men are generally disposed to approve the policy of the Indian Government, for the last twenty or thirty years especially, on the subject of proselytising. As members of the community of singularly pure and upright intentions, Missionaries are entitled to all free course in their good work, which is to state opinions and the reasons which recommend them.

Mr. Mill applies an ingenious *argumentum ad hominem* by asking how the people of England would like to live in a Mahomedan country where they would not be allowed to eat pork? This is not an imaginary case. We are acquainted with several places in British India where, in deference to Hindoo feeling, the slaughter of horned cattle is disallowed; and hence a number of Christians and Mussulmans are debarred from the use of a cheap and nutritious diet. And it is a curious fact, that the Parsees of Western India are stated by Mr. Mill to have incorporated into their code an abstinence from both beef and pork, in consequence of the alternate objections of the two dominant races under whom they have been compelled to live.

And this seems the proper place to notice a species of case in which this country abounds, where a strict adherence to political economy may—and often does—interfere with individual liberty. This is caused by the collision between the two opposite states of society, European and Asiatic. European public opinion requires that trade should be left entirely free—not on liberal, however, so much as on economical grounds. Thus, for instance, we are told that official influence must not be brought to bear on *prices*, because these will be kept level by competition. Thus, during

a time of universal scarcity, when Sir Charles Metcalfe was Lieutenant-Governor of the North-Western Provinces, the Brigadier at Agra reported that the troops were on the verge of mutiny for want of food, of which large stores were known to have been collected by the *Bunyas*; and requesting permission to open the stores and force a sale at what he considered a fair price. Sir C. Metcalfe at once sent back a firm negative; but the *Bunyas* probably took the hint, for the affair was tided over. But it is forgotten, in such cases, that the grain-dealers of that part of India are all of one caste, a close Guild, which can punish with intolerable severity any infraction of the rules of the body, one of which, we may be sure, is against underselling the rate (or *nirik*) fixed by general consent, or by the Panch; but the law cannot punish such a combination, so in an extreme case like that above referred to (competition, the scientific remedy, being barred) the amount of liberty consists in this, that the dealers have the liberty to withhold the necessary food of man, and the public have the liberty to starve. Practically it may be said this is prevented in military cantonments at least by the interference of the Commanding Officer. It may be so, and as far as his own bazar extends, the Commandant is here, in spite of all appearance of arbitrariness, really acting on the side of liberty; that is, he gives the small trader liberty to dispose of his small stock instead of suspending his business at the pleasure of the heads of the Guild, and he gives the consumers—the overwhelming majority of the inhabitants—liberty to get food. But (setting apart that this is done on, at best, a very small scale,) it is objectionable as being illegal, and the real remedy would be to have laws suited to the system which we cannot alter.

So with the trade in land: the usurious and fraudulent dealings of the monied classes, founded on the improvidence and ignorance of the land-owners, and the facility with which they can hypothecate their estates, allows them (the estates) to pass out of their hands into those of the *Surifs* and *Bunyas*; causing a good land-holder to become a disaffected man and possible criminal, while the land is rack-rented and mismanaged by a sedentary absentee. It is here forgotten that the native powers, from whom we inherited the system of holding zemindars responsible for the management of their estates, did not allow such an office to be marketable and generally transferrable any more than we should that of a *tehsildar*; and that the interest of the State—*i. e.* of the public—requires that the powers of an Indian landholder should only be entrusted to those of whose fitness the State is assured. Women may hold them, because they may have efficient agents, and the

respect of the ryots may be theirs from their hereditary right; but what influence can be the Bunya's, who takes the land merely as a commercial investment, and is afraid to visit it, owing to the influence of the old family which makes him a common enemy? What wonder if he acts up to the character, and takes every *piece* he can screw out of the hostile cultivators? What wonder if, in a convulsion like that of 1857, the cultivators rally round the ousted proprietor, burn down the Cutcherry where the transfer is recorded, plunder (perhaps murder) the parvenu, and reinstate their former chief?

The concluding chapter is headed "*Applications.*"

It commences with stating the two maxims which form the doctrine of the past portion of the book: these are—

1st.—The individual is not accountable for conduct which does not affect the interest of others. Thus, we do not punish the Editor of a newspaper for his opinions, but for propounding them in a malicious manner. (Mr. Mill seems to limit, as above noted, this class of responsibility to the case where an overt act follows directly on the publication. But we submit that an article having an inevitable tendency to produce civil war, crime, or deep personal injury to an innocent man, comes under this exception.) So a bankrupt is punished, not for being extravagant, but for injuring his creditors. We shall come to Indian applications presently.

2nd.—The individual may be punished, if his conduct affect the interest of others.

This flows from the first, and the same illustrations apply. In page 170 we find a clear admission of the principle of trade above laid down. "The so-called doctrine of free-trade rests on 'grounds different from, but equally solid with, the principle of individual liberty asserted in this essay.' Equally solid, that is, when the conditions of the society with which we have to deal, are the same as those of that in which it originated.

"The restraints in question," proceeds our author, "affect only 'that part of conduct which society is competent to restrain, and 'are wrong, solely because they do not really produce the results 'which it is desired to produce by them."

We have already shown that the conditions under which trade emerged from restraint in England—which may be all summed up in the word "competition"—do not exist in this country. Further, the people would gladly avail themselves of the restraint which would prevent a set of dealers, practically exercising a monopoly, from conspiring to swell their money bags at the price of human life. The restraint on transfer of land would be equally feasible, and would merely resemble the restraint which prevents a patient in a hospital from throwing himself down a well under



the influence of his disease. If the landholder could not pledge to the money-dealer his command over the land, which is, in part, a political function, he would simply be obliged to do without ready money, which might, however, be advanced to him, on reasonable interest, by the State, under the now almost forgotten system of "tuccavee:" that is, where it was really required for agricultural purposes. This is almost treating the landholders as children; but indeed they are not much better.

At page 174 is noticed the question of the sale of poisons, which Mr. Mill is unwilling to curtail, as they may often be wanted for harmless, nay, useful purposes. In this country so strong is the feeling on the subject (though no legislative enactment exists), that the shop-keepers will not sell this class of drugs where there is a probability of its being found out, without an order from the Magistrate.\*

The recent legislation on the subject of arms is of this nature. Lethal weapons being supposed to be chiefly useful for bad purposes, it is now penal to possess them, or to manufacture, or deal in them without a license; and licenses are at present very sparingly bestowed. But the evil is, that the more dangerous classes do not give up their arms, which are the tools of their trade, while the rest of the public, whose arms are not dangerous, as long at least as the army is faithful, are left unarmed—an easy prey to the criminals whom our ignominiously useless Police and our ideas of liberty leave free to come and go, and work their wicked will on Society.

The objection to our ideas of liberty is, that they are ideas and not living principles growing out of the constitution of society. From such a phantom proceeds our dislike to a passport system, which, conjoined with a scheme of labor for vagrants, would keep down crime more than any other measure that could be applied to the present state of Indian Society.

So, again, in respect of procuring the victims of prostitution, and of keeping gaming-houses. Both these are in some codes theoretically penal; but modern ideology renders it very difficult to put any real restraint upon them. It is now pretty generally admitted that the three immoralities of drunkenness, fornication, and gambling, if not exclusively reflective or self-regarding, have yet so little direct influence on the happiness of others, that they

\* Mr. Mill's remedy is the provision of what Bentham happily calls "pre-appointed evidence:" that the druggist, for instance, should be obliged to insist on the presence of a witness when he sells a poisonous drug; that he should affix a conspicuous label to the parcel or bottle, stating that it contains poison; and that he should enter the particulars in a book. We do not see how this is to be done in India, because, for one thing, the *pansaree* is not yet fitted for Magisterial functions, and; for another, that the label, if affixed, would convey no information to people who cannot read.

ought not to be treated by legal penalty, though they are fair and legitimate subjects for social censure: the evils of a severe legislation on such matters having been proved by the experience of centuries to be greater than those which the offences cause when left to private morality and public opinion. But Mr. Mill raises the question, whether it can be laid down consistently that, "what the agent is free to do, other persons ought to be equally free to counsel or instigate?"—(page 176.) This brings up the questions so often discussed at home of "Maine-Law" and "Social Evils." And in this country opinion and law, as practically enforced, appear to be in a somewhat vague, and, so to speak, empiric condition. The *rational*, on Mr. Mill's principles, would be sufficiently obvious, we think, if he himself had not pronounced that "this question is not free from difficulty." "If," he proceeds, "people must be allowed, in whatever concerns themselves, to act as seems best to themselves, at their own peril, they must equally be free to consult with one another about what is fit to be so done; to exchange opinions, and to give and receive suggestions. Whatever it is permitted to do, it must be permitted to advise to do." He admits, however, that, if the adviser have a personal interest in advising an immorality, the case becomes doubtful. But we cannot help thinking that this admission leads to a simple solution of the difficulty. Whoever makes a pursuit or livelihood out of what it is bad for his customers that they should be allowed to do, commits a habitual injury to them. It is not disputed that a gamester injures his health of mind or body, and that either his fortune or his honesty must be ultimately lost. The man who profits by keeping a house in which numbers of persons constantly find the means of thus inevitably injuring themselves, is surely responsible for a great part of that injury, and, as such, a fit subject of legal restraint. The real difficulty is in the case of liquor-shops, where the article sold, like the poisons above referred to, is one that may be used for innocent, and even for beneficial purposes. And to this we shall revert, in connection with the question of the Abkarry or Indian Excise, when we come to the appropriate portion of Mr. Mill's chapter now under review.

But not only are gaming-houses fit objects of Indian legislation in regard of the reason above noted, (which applies equally to gaming-houses all over the world,) but there is this special reason that, in this country they form well-known resorts of the idle, the ignorant, and the needy, who are there enabled to concoct schemes of plunder, for which the necessities engendered by gaming form a too certain incentive. They thus combine

the character of a London thieves' public-house with that of a "fence," or receptacle for stolen goods. Mr. Mill will not "venture to decide" whether keepers of brothels and "hells" should not at least be compelled to prosecute their callings in obscurity, so that their customers should be only those who are resolved to seek them, not called from multitudes of unwary passers-by, and this may be the proper rule regarding the former of these disreputable haunts; but gaming-houses in India, at least, are fair objects of Police persecution, and their proprietors should be made uncomfortable rather than merely obscure. At present procuration is, perhaps, by Indian Law, theoretically punishable; but the keeping of a brothel is expressly removed from Magisterial interference. Nor does any power exist by which gaming-house keepers can be punished, although a special enactment of 1848 bars the recovery of sums won by wagers.

But the case is different in regard to liquor. Here the Indian Government pursues a consistent and a reasonable course. It requires a revenue from certain articles which, though not altogether noxious, or even perhaps superfluous, are still not absolutely indispensable to human life, and are consumed in smaller quantities and in inferior qualities by the poor than by the rich.

To initiate a crusade against the use of liquor, as some fanatics, both here and at Home, would recommend, is to attempt what would be an absurd cruelty, were it not a troublesome futility. There is not an article of diet which is not liable to abuse, yet who thinks of proscribing *ghce*, because myriads of bunyas and sepoys get dyspepsia and surfeit from over-indulgence in that most (to us) unappreciable and marvellous delicacy? It is sometimes unreflectingly argued that the Abkarry tax *increases* the consumption of spirits—a valuable hint for Financiers, were it creditable, that the more impost you lay upon a commodity the more of it will be consumed!

It may be conceded, then, that ardent liquors differ from the means of vice last discussed in this, that they are fit objects of taxation rather than of persecution. But the shops where they are sold are, like brothels and gaming-houses, used as resorts by bad characters. They may be, and often are, so. But, if the wares vended there be not necessarily evil, the action of the Police in their case may stop short at surveillance. For this purpose, no less than for fiscal purposes, some sort of monopoly will be beneficial: in England the shops are licensed, in India they are farmed by a monopolist. Neither plan is an unjustifiable interference with liberty. Least of all is such the case in India. The relation of the parent or teacher to the child necessarily implies a certain restraint on the freedom of the latter;

and something of that relation must always adhere to the sway exercised by a highly civilized race over one which is its inferior in moral and intellectual status. It is the character of our position in India that we treat the natives as wards and pupils.

And this brings us to the vexed question of education, which can never be settled except on the basis of an admitted obligation. It is shown by actual demonstration in the work before us, that the instruction of his offspring is a duty owed by each parent (or at least father) to the society into which he introduces an infant member. Being so, it is the duty of the State to see that it is discharged. But the function of the State ends here. It has been proved already that strength is no test of truth, therefore the State has no right to dictate opinions to its subjects. Moreover, as Mr. Mill well puts it, "a general State education is a mere contrivance for moulding people to be exactly like one another;" and he has before laid it down that, so far from this being desirable, diversity of individual character, opinion, and conduct is of vital importance to a healthy state of society.

It should therefore be the object of the Department of Public Instruction, primarily, to see that every man either availed himself of the means of education provided by the State, or provided his children with the means of education at his own expense: and all children above ten years old—say—should be subject to a yearly public examination in elementary branches of general knowledge, the parents of those found deficient being punished by fine or labor. The Government should gradually withdraw from the charge of schools and colleges, as they found persons or corporations able and willing to undertake them, until the aid from the State to education should at last be confined to examination, inspection, and grants-in-aid, with perhaps a school or college here and there as a standard or experiment, and for the instruction of teachers.

As a general rule, the State should abstain from the *direction* of education, while vigorously requiring that children should be educated, but where the people cannot, or will not, support proper schools and colleges, there Government may, and should, continue to carry them on as a temporary measure, just as it does a Railway or a Tea Plantation.

It is interesting to observe how the application of Mr. Mill's doctrine would solve the long-pending difficulty about the vernacular education of the natives of Bengal. The Court of Directors, and their successors in Leadenhall Street, have always been anxious that grants-in-aid should be exclusively given to colleges and first-class schools. The local authorities have been

unanimous in wishing to see education fostered among a larger class of the community. They wished the elementary schools of the poor to be aided. The Home Government was satisfied that this kind of education could be met by a compulsory cess and a system of indigenous Government schools, as carried out in the North-West Provinces. The Bengal Authorities, partly from their local knowledge of its unpopularity and very limited success, partly perhaps from a glimmering of Statesmanship, protested and recommended a large measure of pecuniary aid to private schools; and the Supreme Council of Calcutta once got so near to the true principles as to recommend an extensive issue of elementary vernacular books, and prizes to be given to those masters of indigenous Schools whose pupils passed the best examination in them. And Mr. Halliday\* showed good reason why this sort of aided but voluntary education, of which he was an ardent supporter, should not be at first expected to go very low, or spread very wide. We should not expect a demand for instruction on the part of "hewers of wood and drawers of water"—a class not yet reached by the School-master even in England.

This, as a question of practical detail, is also one of time. Perhaps it would be sufficient, at present, to apply Mr. Mill's rule to the case of persons entered in the Government rent-roll, who are in some measure Government servants, and in whose intelligence and good behaviour Government has a direct interest.

But there is another duty owed by parents, not only to their children, but to society, on which, if possible, the Legislature should strictly insist. We refer to vaccination. When we reflect on the myriads of human beings who are annually swept off by small-pox in this country, and on the fearfully contagious nature of the pestilence, we cannot feel that we are asking too much in urging on the State to make vaccination, *of all children above six months*, compulsory. True, the people have objections and suspicions; but really if, after the events of '57-58, we are not strong enough to insist on what we know to be right, we have no business to remain where we are. And the *right* cannot be doubted in this matter.

At page 196 we have a valuable statement of the advantages, in a political point of view, of municipal institutions. Nothing is more required in this country—for three objects.

First, to inform us of the wishes, hopes, fears, and opinions of the natives: it is not to be supposed that they will, at first, conform to Parliamentary, or even to vestry-usages; but every

\* Quoted in *Friend of India* for January 19, 1860.

wise ruler of a district knows the value of native sentiments as an aid in ruling.

*Second*, to prepare the people gradually for self-government; this we must, if we are honest, suppose to be one of the ultimate objects of our presence as masters in this country; and the germ of it is already present in the time-honored village-institutions which we found all over India, and which—to our own loss and shame—we alone, of all the successive Lords of India, have partially eradicated.

*Third*, for taxation. Half the difficulties attending the introduction of new imposts have been met by the rulers of the Punjab, who, unfettered by regulation-law, have consulted native opinion largely, and availed themselves of existing municipal bodies, or created fresh ones for the purpose. To say that this or that tax, though devised by the collective wisdom of the Calcutta Law-givers, must be the pattern for all the nations and languages from Peshawur to Prome, or even from Kumaon to Coromandel, is to start on the enterprise with ensured failure provided beforehand. A tax may be highly productive in Dantzic, which would yield nothing in Florence, and lead to rebellion in Madrid; and yet we know far less of the feelings and peculiarities of the various people who occupy this quasi-continent with which we have to deal on this difficult subject than continental rulers know of their subjects. But the quota for each city or pergunnah once fixed, (and some control perhaps given as to its expenditure,) and the local notables would raise it as easily as they now raise the Chokeydaree tax. We shall soon see local budgets for each Presidency—for Madras, Bombay, Sind, the Punjab, the North-Western Provinces, Oudh, and Bengal. Each Lieutenant-Governor should, in concert with the chiefs of divisions and districts, fix the amount to be raised for the public works, the Police, and other purely local objects of each division and district, and the amount now spent from imperial revenues on such objects will form so much clear gain to the State, which would then have only the general charges to meet, such as pay of the Army, and interest on public debt.

The constitution of the Civil Service, as it exists at present, renders it doubtful whether the pay of its members would form more correctly a local or a general charge. But which is of far more importance to settle, it is also doubtful how far a body so constituted would work in harmony with municipal institutions. It is, however, known that the Prefects in France have bodies of an elective character united with them in administration; and perhaps the able pen, which recently presented the readers of the

*Calcutta Review* with so clear a picture of the French Courts, may be led to favor us with an account of the working of the administrative polity of that country. Clearly a country governed by a foreign race, superior in the arts of life to their subjects, cannot cashier its civil officers, and leave almost everything to the localities; but it does not, we confess, appear to us at all chimerical that local bodies might be gradually entrusted with considerable power—for local objects—as long as the Government continued to be represented by an officer of rank and character on the spot. Mr. Mill cites the case of the United States as an example of a country where, “let them be left ‘without a government, every body of Americans is able to ‘improvise one, and to carry on that or any other public business ‘with a sufficient amount of intelligence, order, and decision.” Assuredly it is to that pass that we must bring the people of this country if we are to remain here till our work is done; but as certainly will it be a work of time. Meanwhile, there is this farther difficulty noted in the next page (202 *et seq.*)—“A ‘Chinese mandarin is as much the tool and creature of a despotism as the humblest cultivator. \* \* \* It is not, also, to be ‘forgotten that the absorption of all the principal ability of the ‘country into the governing body is fatal, sooner or later, to the ‘mental activity and progressiveness of the body itself. Banded ‘together as they are—working a system which, like all systems, ‘necessarily proceeds in a great measure by fixed rules—the ‘official body are under the constant temptation of sinking into ‘indolent routine; or, if they now and then desert that mill-horse round, of rushing into some half-examined crudity ‘which has struck the fancy of some leading member of the ‘corps.”

The author's India House experience may have helped him here; he has undoubtedly described a state of things not unknown in the civil administration of this country. The creation of a body of public critics and thoughtful men outside the official body would be one result of the introduction of municipal institutions, and would form the best (Mr. Mill thinks the only) check to these tendencies; the best stimulus to keep the ability of the Service in working order, while it ensured a careful testing and weighing of every proposed innovation.

He concludes that centralization should chiefly concern itself with the collection and dissemination of *information*, and of introducing and maintaining method in public business; while *power* should be as widely diffused as was consistent with efficiency. The central authorities should know what was being done, and should give it a uniform tendency; but the local

bodies should be independent as far as circumstances, from time to time, permitted them to be.

In conclusion, we would again observe that we have not presumed to comment on Mr. Mill's doctrine in general, but have contented ourselves with pointing out some of its applications to the affairs of this country. We trust that we have shown three things:—

*First*, that there is a want in Indian administration of some rule regarding liberty; too much being given or left in some respects, too little in others.

*Second*, that, admitting the general doctrine of this Prince of living English thinkers, we have such a rule.

*Third*, that this rule, abstractedly stated, is the same here as elsewhere, *viz.* that the individual should have that amount of liberty, *and no more*, that is consistent with the greatest happiness of the greatest number.

Not only, however, have we shown that the result of the application of this rule to Indian affairs will leave the individual (native) less liberty than its application to English affairs, but we have ventured, respectfully, to qualify one or two of the author's applications generally.

Had we not thought a theological discussion foreign to these pages, we might have gone a little further, and questioned the propriety of his remarks on the Christian religion. Not only do we differ from him in his estimate of the completeness of Christian ethics, but we think he has shown a misapprehension of their whole scope, which is to raise a high standard by showing, in the teaching and example of its founder, what is the conduct of a perfect man, so that men may go on indefinitely progressing towards perfection. And, when he says that some of the best men and greatest benefactors of the species have been disbelievers—even antagonists—of Christianity, we think he quite forgets that they have usually had the advantage of being born and bred in Christian societies, and educated—in all probability—by Christian parents and teachers.

But it is a noble book, full of calm but earnest pleading, and well calculated to arrest that progress towards Chinese mediocrity and stagnation which the tyranny of the majority is developing in English and American society. We therefore heartily commend it to the careful attention of all independent minds.

NOTE.—Since this article was begun, and too late to notice it in its proper place, we have received a pamphlet, published at the Loodiana Mission Press, under the title of "*The Freedom of the Press and Biblical Christianity reconsidered, &c., by a Bible Christian.*" We would not comment on the general subject-



matter of this tract, which is a learned resumé of the Scriptural arguments in favor of the doctrine of the Trinity; but we cannot help drawing attention to the curious insight it gives into the haze of ideas on the ethics of discussion which exist in the minds of well-educated and well-meaning men. This writer, while making the most of the veil of the anonymous for himself, attacks his opponent Captain Mercer, H. M.'s 94th Foot, by name, with a good deal of satirical personality not very well calculated to promote an unbiassed examination of his solemn theme. And on the subject of the freedom of the Press—which has nothing to do, be it said, with his main argument, he expresses himself as follows:—"What I understand by the freedom of the Press is, that any person, who chooses and *can do so honestly*, may establish a Press, and publish at that Press, or *refuse to publish* what he thinks proper \* \* \* \* \* *Slander of private and public character*, I think, should be restrained by severe penalties. Everything *immoral* in its own nature or directly *tending to demoralise* the community \* \* \* should, as far as possible, be under some sort of restraint, or freedom will soon degenerate into licentiousness."

Brave words, but containing the germ of all the restraints to which discussion was too long subjected. The party which has the power to punish or restrain public writers, always does so on the ground that their productions are "immoral in their nature, or directly tend to demoralise the community," and we feel pretty sure that, if our "Bible Christian" (such is the title of the pamphleteer) had the power, he would restrain or punish the publisher of Unitarian arguments on this very ground. The proper remedy for writings supposed to contain either slander or immoral views, is to meet them by counter-statements, and overthrow them with sounder reasons. Truth will prevail in the long run, but not by appearing to shun the light or to silence its antagonists by brutal force.

large and powerful clan, that had from the commencement been managed by many of the best political officers that the Company's Service ever produced; by Ochterlony, George Clerk, Wade, Broadfoot, Henry Lawrence, Edmonstone. And this clan looked to Puttiala as its head. Then again the Cis-Sutlej Chiefs were the life and soul of the great sect of Malwa Sikhs, on the east side of the Sutlej, as contradistinguished from the Manjha Sikhs of the Punjab Proper. The position of the Malwa Sikhs then was most critical and important, they were the great political break-water between the loyal Punjab and the rebellious Hindoostan. Against this human barrier the tide of rebellion and anarchy surged and dashed for months together. There was no intervening, no neutral ground. The waters of strife came right up to the barrier. At times it was very near giving way, but British Officers repaired the breaches and kept it firm. Had it given way, the rebellion would have advanced right up to the Sutlej, the example would have been set of one sect of Sikhs having turned against us. And who shall say what effect such an example might have had upon the Manjha Sikhs in the heart of the Punjab. There is no doubt that the manifest loyalty of Puttiala had a most salutary effect on the Punjab Chiefs.

It were vain to speculate on what would have happened if the siege of Delhi had failed, and the Punjab had been lost to us in 1857. But enough has perhaps been said to give the reader some faint idea of the importance attached at that crisis to the conduct of Puttiala. At that juncture, then, how did the Maharaja behave? From the moment that the news of the outbreak was telegraphed from Delhi, he placed his troops and his servants at our disposal. He said that his house had always been faithful to the paramount power, from the time it received its Patent of Royalty from the Dorrance Emperor, to the time when it did good service in the Affghan war and the Sutlej Campaign. He tendered his personal service either to march to Delhi, or to remain near Umballa, and repress disturbance at home. He went to meet General Anson at the Umballa Cantonment. And soon enough work was found for him. Mr. George Barnes, the Commissioner of the Cis-Sutlej States, had lately returned from England. He possessed great insight into the native character, and had exercised political control for some years over the Cis-Sutlej Chiefs. He was and is one of the leading men of Sir John Lawrence's school, and is among the foremost of those officers who won such a name for the Punjab during 1857. The Maharaja was in daily communication with Mr. Barnes, and evinced every anxiety to comply with all the Commissioner's behests. Mr. Barnes at that time had indeed a difficult task. He had to maintain order

in districts bordering on the scene of the rebellion. From the Delhi Districts, blazing with rebellion, there were constantly falling sparks and firebrands into the Cis-Sutlej States. Often those States were very nearly catching fire, and the rising flames had to be stamped out with vigilance and vigour. But Mr. Barnes had also to maintain and exert political influence over all the Rajas and Chiefs, to dispose and arrange their available force that might best subserve the plans of the Commander of the Forces before Delhi, and might best minister to the wants of that gallant band. The manner in which these arduous duties were performed by Mr. Barnes was attested by the public acknowledgment transmitted to him and his officers by Sir A. Wilson after the capture of Delhi. Thus the Maharaja of Puttiala had the best possible advice and guidance from Mr. Barnes throughout the crisis of 1857.

All the Grand Trunk Road, from Umballa to Kurnaul, was protected by his troops; and escorts of all kinds were furnished by him. Some four or five thousand men were engaged in our service. The duties on which these men were employed were multifarious and indispensable. The Maharaja had evil spirits among his subjects, but he managed to keep order. He maintained a resolute and cheerful aspect. The fugitives from the Sirsa District, who passed through his capital, were treated with every consideration, and he assured them of his confidence that sooner or later British troops would pour out from home and regain every thing. Towards the autumn of 1857, however, he did, in common with the stoutest of our adherents, feel deep anxiety for the issue of the crisis. His eyes were constantly turned towards Lahore, for he knew that, if an outbreak should occur in the Punjab Proper, then Puttiala, situate between the Punjab on one side and the Delhi rebellion on the other, would be like an island on which two advancing tides were encroaching on either side. When Delhi was recaptured, and the crisis for North-West India was overpast, one of the first acts of the Supreme Government, on the recommendation of Sir John Lawrence, was to grant to the Maharaja of Puttiala territory yielding two lakhs of Rupees per annum, out of the confiscated domains of the traitor Nawab of Jhujjur. This arrangement was doubly advantageous, for it not only conferred a munificent reward on a faithful ally, but it also placed a friendly and reliable Hindoo Principality on a somewhat remote and wild frontier in the neighborhood of Mewatees, Shekhawatees, and various troublesome Mahomedan tribes. Recently, on the occasion of Lord Canning's visit to Umballa, the Maharaja was received in great state at the Governor-General's Durbar; was honored with a well-deserved tribute from the lips of the Viceroy, and

received the assurance that, in the event of heirs failing his line, the right of adoption from among the Phoolkea clan (to which the Maharaja belongs) would be recognised by the British Government.

Such was the host, and such were his antecedents when, in December 1857, a large company of European Officers and gentlemen were assembled at Puttiala. There were about eighty Officers, besides many ladies, from the various cantonments in the neighborhood, and especially Umballa, which is only 20 miles distant. All the Chiefs of the Cis-Sutlej States and some from the Punjab were present, many chiefs had their camps pitched separately in the neighborhood of the town. Each of these encampments formed a little city of itself, in the centre the tent of the Raja himself would rise up, and all round it would cluster the little tents of his servants, retainers, or troops. These little tents contain an astonishing variety of articles enough to furnish an old curiosity shop—horses, ponies, bullocks, and donkeys are tethered and picketed all round them. The smoke of the countless cooking fires of an evening would obscure the air; sentries with rusty arms and faded uniforms would be posted all round. All night long there would be the sounds of drums, and tinkling cymbals, and singing voices. Such is the encampment of a Native Chief. There were many such pitched all round Puttiala on this occasion; but were so arranged as not to interfere with the quarter assigned to the European visitors. But besides the chiefs there were natives of all ranks, high and low, innumerable. A general invitation had been issued to the country all round. And every man who, either by family connexion, or clanship, or acquaintance, or political association, or priestly influence, had a right, or was under an obligation, to be present, was so present either in person or by representative. Persons from distant places, and apparently without any immediate concern in the affair, would be present; but nevertheless it would be found that there was a connexion, a mutual understanding, which brought them there. Priests of all ranks, Sikh and Hindoo, would be there; and it was evident that these gentry have a thorough freemasonry among themselves. To any thoughtful observer such spectacles are interesting, as showing the infinite ramifications of native society, and the various channels of influence which exist, and the remarkable powers of secret combination for any purpose which are hereby afforded. And nothing could show more conclusively the indirect moral influence possessed by native princes and chiefs; and the important aid which, when well affected, they can render to the British Government. On this occasion, it was calculated that

there were a hundred thousand visitors present at Puttiala, most of whom were "boarded and lodged" at the Maharaja's expense. The depôts of grain and victuals established in the environs of the city were well worth seeing. The greater part of the Maharaja's troops were engaged in doing police and sentry work, and certainly very few police Magistrates could have kept order better than it was kept on this occasion. Vast as was the number of holiday-makers, incessant as were the festivities night and day, great as were the quantities of "effects" of all kinds scattered in tents in the plain, still no "row" took place, and no thefts occurred.

By the 8th of December all the European visitors had arrived. Mr. Barnes himself was there, and so was Sir H. Garrett, the General Commanding the Sirhind Division, with a number of Officers. The district Officers of the neighboring British districts came in during the day. A large garden, full of shady trees, was allotted to the European visitors. The tents were pitched under the trees, and the scene in the garden soon became one of considerable animation. During the first day the visitors looked round the place. Puttiala is not a very large town, but of late years it has been much improved after the European model, that is, broad streets have been lined out, regular bazaars built, pavement laid down, drains constructed, and the like. Throughout the Cis-Sutlej States the independent chiefs are, in the matter of architecture and municipal conservancy, imitating the European style. The same imitation is extending to furniture also. These gentry are becoming particularly fond of our ornamental glass work. It would astonish people at the Presidency, not a little, if they knew the number of mirrors, chandeliers, "lustres," and such like things, which are exported annually from Calcutta to the provinces bordering on the Sutlej. But to return to Puttiala, the chief object of interest within the city is the castellated palace. The centre of it consists of a strong well-built fort, in which the Maharaja's Harem is now kept. Outside the fort, however, two fine quadrangles, with hall of audience and apartments rising up to three stories, have been constructed by the present Maharaja and his father. The fort itself was built by the present Maharaja's great-grandfather Alla Sing. This Alla Sing, who flourished about a hundred years ago, was born in a village many miles from where the capital of Puttiala now stands. He began life, (as it is commonly said,) as a poor peasant, with a slender patrimony, consisting of two draught bullocks and half an acre of land. But he was an enterprising man, and as the bonds of the Mogul Empire were being loosened all over the country, the times were suited for enterprise. So Alla Sing "annexed" village after village, till he ended his days as

Sovereign of the Puttiala State and the builder of the fort we have just mentioned. The place of his birth and of his education in the art of annexation is much venerated by his descendants, and the spot where he cooked his food in those days, his hearth, as it is called, is held sacred. The place of his funeral pyre is marked by a handsome tomb of red sandstone, near the fort; and round this tomb there sleep the descendants who inherited the sovereignty he founded.

But the best object in Puttiala is the "Motee Bagh" or Pearl Garden. This has marble fountains, and artificial cascades, and summer-houses and tanks, and is altogether a very inviting place, though its architecture, like that of all modern Hindoo and Mahomedan buildings, is quite inferior to the style which the great Moguls introduced when they built gardens and palaces. It was close to this that the great tent was pitched for the bridegroom, the young Maharaja of Bhurtpore. And a spacious plain was marked off for the large body of followers that he was to bring with him.

The 9th of December had been fixed for the entry of the bridegroom into Puttiala. He had been marching up from Bhurtpore *vid* Delhi; and was to make his state entry into Puttiala on the 9th. As his procession approached the city, it was to be met by a similar procession headed by the Maharaja of Puttiala. A number of the European visitors joined this procession on elephants: and all the native chiefs were there, similarly mounted. As this procession got under weigh in the court-yard of the palace, and struggled through the streets of the city, the crush of elephants was extraordinary, and as one huge brute dashed up against the other, (just like the waves of a troubled ocean surging about,) the crash of shattered howdahs might be heard. But as the procession emerged into the open plain, the sight was very imposing; the elephants were got into something like a line, and there were about seventy of them in the field. The gorgeous trappings, and the gay costumes of the chiefs shone forth in the sun. And the elephants, which carried the European Officers, looked as well as any. On one elephant would be Officers with the Highland costumes and bonnets; on another, Officers in the Hussar uniforms; on another, Officers with the Infantry uniform, and so on. Occasionally, however, the dust would rise and fly about, and that would add a "misty magnificence" to the scene. After this procession had marched along for about two miles, clouds of dust indicated the approach of the Bhurtpore procession. And soon it came in sight, also moving in a compact array of about fifty elephants. The young Maharaja was upon an elephant perfectly covered with massive gold trappings; with him were carried the insignia of native royalty, the great Fish

and the Sacred Bird, both emblems being in solid gold and silver. Next to him on an elephant was Major Bouverie, the Government Agent. It was observed that the swell mob crowded a good deal round the young Maharaja's elephant, and the sticks of the attendants resounded incessantly on the backs of these gentry. The reason of this was, that all sorts of light-fingered persons endeavor to abstract jewels and pieces of gold embroidery from the trappings of the elephant, and that nothing short of the watchful eyes and thick sticks of the attendants could prevent endless pilfering. After the introductory salutations between the two Maharajas had passed, an attempt was made to unite the processions; this obliged the Puttiala procession to wheel round, a manœuvre which can better be imagined than described. In less than a minute the two processions got mingled up in utter confusion, a blinding dust arose, so that none could see where he was going: the elephants (being nervous beasts, always losing their heads in an emergency) dashed up against each other, and with their long trunks loudly trumpeted forth their disgust at the proceedings; then the howdahs began to go crash, crash, and a small disaster seemed imminent. However, order was soon restored, and the array of elephants, with the rich variety of costume and trappings, was really very fine. And the occasional contrempe, which must always occur, added a little zest and excitement to the thing. Returning towards Puttiala, the procession halted at a tent and canopy which had been pitched for the Bhurtpore Maharaja on the road. Here the parties of both processions alighted for a few minutes; the guests were seated on velvet cushions spread out on the bare ground; some religious ceremonies were performed; flowers were placed in the bridegroom's hand, and some incantations muttered. Then the Puttiala procession returned to the city, leaving the Bhurtpore procession to rest itself awhile and prepare for the grand entry.

The Puttiala party then returning to the palace, shook the dust off their garments, and dismissed their elephants, and took up their position at the palace windows. There was a capital balcony for the European spectators. There was a lofty enclosed place, from which the ladies of the Harem might see without being seen. There were roofs of houses covered with the citizens of Puttiala in gala costume. The road and street were kept clear by the Puttiala troops, in order that the bridegroom's procession might pass. Presently the vanguard of the procession came in the shape of troops, which, though not very regular to European eyes, were curious enough. Then there were all kinds of oriental cars and vehicles, in every variety of shape and size, some drawn by elephants, some by camels, some by horses, some by bullocks:

however mean the animal itself might be, its trappings would be more or less handsome and rich in color ; then would follow strings of led animals, horses and ponies, all caparisoned ; then there came ricketty carriages and gigs of European build. And all this time attendants in grotesque costume, and sometimes of picturesque appearance, marched along, and music, sometimes native horns and pipes, more discordant than the bag-pipe itself, and sometimes cracked brass instruments of European make, kept up an unceasing volume of dissonant sounds. Then there appeared the insignia of royalty, which we have above mentioned, and then the Maharaja himself. As he passed the great balcony over the palace gateway, where the European gentry and native chiefs had stationed themselves, he and his attendants flung silver and gold coins in handfuls among the crowd, which, by this time, had become very dense. The crowd struggled for the spoil, and rushed about all round the elephants, in imminent danger of being trampled to death. The attendants seemed intent on keeping a sort of order by means of their sticks. The noise of countless sticks resounding on human backs, was strange enough. But it did seem rather inconsistent to drive a crowd into the wildest state of excitement by throwing gold coins among them, and then to apply the *argumentum baculinum*, because they were unruly. The natives, however, say that nothing short of this discipline would prevent the crowd, in their strife for the coins, from getting crushed to death by the elephants. As it was two lives were lost. At the first the spectators on the neighboring housetops were grave and orderly, and looked quite dignified as contrasted with the struggling mob in the street. But, as if to disturb their gravity, the Maharaja's attendants threw gold coins among *them* also. The effect was quite electrical. In an instant rich bankers and well-dressed citizens jumped up from their seats and began to scramble for the spoils. Such is the magnetic attraction between the human hand and the precious metals—if a shell had burst among them, the confusion could not have been more instantaneous. At one time the elephants themselves seemed to catch the infection, and apparently, under the impression that something very valuable was going about begging, began to poke their trunks about, expecting to pick up something ! At length the young Maharaja himself passed on towards his encampment amidst the vociferations of the crowd. And after him there followed that train of rag-tag and bob-tail, which cannot be described, but which is not unworthy of the observation of those who like to see humanity in its strangest varieties. The procession took about two hours in passing by the palace.

After that the European ladies and gentlemen returned to their own encampment to talk over the sports of the morning,



and to prepare for the festivities of the evening. The preparations for illumination were on a grand scale, and were made, according to custom, at the expense of the bridegroom. From the Bhurtpore encampment to the palace, about a mile and a half, the roadway was one avenue of light, on either side a framework of wood had been erected, to which the oil-lamps were attached. And at intervals there were triumphal arches and festoons of light. The effect of the illumination was, however, a little marred by the masses of smoke which arose from the Bhurtpore encampment. It appeared that the 30,000 camp followers were all cooking their suppers after the day's march, the smoke of so many fires pervaded the atmosphere, and sometimes made the eyes of spectators smart acutely.

After viewing the illuminations, the party proceeded to the same balcony, as in the morning, to witness the entry of the Bhurtpore Maharaja into the Puttiala palace. In the morning the bridegroom had only entered his own encampment, passing through the city. He was now to enter the *sanctum sanctorum* of the Harem. A large party of European gentlemen and Native Chiefs were assembled in the balcony over the palace gateway. After a time rockets, discharged in numbers, announced the approach of the young Maharaja. And then as his procession of elephants approached the gate, a crowd of torch-bearers turned the darkness into day, and singers and dancers kept up a wild chorus. The crush of the elephants under the gateway, the swarming populace, the flickering glare of the torch-light, the contrast of light and darkness, the mixture of splendor and confusion, the discordant din, rendered the scene very curious. In the day time such a scene would be strange; but it was stranger still at midnight. In the space opposite the gateway there was spread out what is called the "Flower bed." This flower bed consists of wooden framework, representing miniature trees, shrubs and flowers. These are covered with all sorts of fancy-work, and also with a good deal of gold and silver embroidery; so that it has a sort of marketable value. While it was spread out on the ground, the mob seemed to crowd round it in a sort of wistful manner as if feasting their greedy eyes thereon. As soon as the last elephant had disappeared underneath the gloomy portal, a signal was given to the mob to work their will on the flower bed. In an instant they began to tear the flower bed to pieces; each man carrying off what he could. The scramble of these people, for these little spoils in the dark, with the crackling of the flower bed, as it was subjected to this wholesale spoliation, formed a singular scene indeed.

As the little bridegroom alighted at the gate of the Harem, the Maharaja of Puttiala took him up in his arms and carried

him inside. The poor boy was, it is said, considerably indisposed by the fatigues of the day.

It was now midnight; but still the ministers, officers of the Bhurtpore State, had to be received in the great hall of audience. This hall is built in native style, but furnished with immense chandeliers of colored Bohemian glass; one red, another green, another yellow, and so on. In an English room they would look gaudy; but they have a gorgeous effect, and suit well with the other furniture, the rich carpets, and the gay costumes; Bohemian glass is highly admired by Orientals. At each end of the room there are immense mirrors, which the Maharaja himself selected when he last visited Calcutta, and which of course impart to the hall the appearance of indefinite extension at either end. How such things travelled safely for a thousand miles in the interior of India without the slightest injury, escaping all the perils of the Government Bullock Train, is hard to be imagined—the fact proves that Inland Transit in India cannot be so bad after all! Well, in this room the Bhurtpore gentry were received. In their robes, the colors of red and crimson greatly predominated; most of the best dresses were entirely red and gold. Among the chief of these was Ruttun Sing Choudree, a very able man, and quite the pillar of the Bhurtpore State. He is a tall dignified man, with a countenance full of intellect. His personal gallantry under General Showers, and his devoted loyalty, is attested by a patent signed by Lord Canning. He also wears a sword presented to him by the British Government. He and the Bhurtpore Officers with him were introduced to the European Officers present. Then a space was cleared for singers and dancers; and the assembly did not break up till a late hour.

The next morning the drowsy city did not wake till a late hour, but by a tolerably early hour the Maharaja of Puttiala was engaged in entertaining all the Cis-Sutlej Chiefs at a monster breakfast. On that occasion of course we were not present. At about noon, however, preparations were made for a great Durbar, at which all the European Officers and all the Native Chiefs, both of the Cis-Sutlej and of Bhurtpore, were to be present. The hall of audience, though spacious, was quite too small for this. So an enormous awning or canopy of beautiful colors, supported by silver poles, arranged in lines like colonnades, was spread over the great quadrangle: on the ground of the quadrangle were spread all sorts of rich carpets. Thus an enormous apartment was "rigged up." The effect was really beautiful when the place was filled with European Officers in full dress uniform, and Native Chiefs, covered with silks, and satins, and velvets, and embroidery and jewels.

In full sunshine the effect might have been glaring: but the subdued light under the canopy imparted a softened grandeur to the whole scene. On one side of the Maharaja sat his little son-in-law of Bhurtapore, and on the other Mr. Barnes, the Commissioner. The Maharaja is himself a tall fine-built man, in the prime of life. His appearance and carriage present all the characteristics of the Malwa Sikhs. Each Officer was introduced to the Maharaja by name (about seventy were there.) The Maharaja said, no doubt with sincerity, that the presence of so many gentlemen conferred upon him an honor, which would be appreciated by his countrymen. Each Native Chief, as he came up, presented his salutations. To two or three of them the Maharaja paid the distinction of rising as they approached. Among these were his two kinsmen the Rajas of Jheend and Nabha.

The Raja Suroop Sing of Jheend is, in respect of services rendered to our cause during the disturbances of 1857, second only to the Maharaja, if indeed second to him. Suroop Sing's ancestors, Bagh Sing and Gujput Sing, were of the same clan and of the same character as the Alla Sing whom we have above described. Suroop Sing himself will say that his title was originally that of the strong right arm alone.

He has fine features; with the flowing grey beard which a Sikh regards as the greatest ornament imaginable, and is in stature considerably above six feet. He really stands like Saul, a head and shoulder above the rest of the people. The moment the Delhi news was telegraphed to Umballa, Suroop Sing got his summons to march against the rebels. He marched within twelve hours, making the pithy remark that he had enjoyed comfort for fifty years under the British, and should now cast in his lot with theirs. He took with him all his troops, (they were not numerous,) leaving his fort and harem and little capital quite defenceless. As he approached Delhi he managed to march in the vanguard of the British Army: preparing shelter at that burning season, and laying in supplies, for the European soldiers. He was actually the first man who appeared before Delhi in arms on the British side after the outbreak. His troops certainly did get worsted once on the Jumna ferry, but, on the whole, they did good service, and formed part of the storming columns in the final assault at the Cashmere Gate. The Raja himself remained under canvas with our troops throughout the whole period of the siege. He has been rewarded by a grant of a lakh of Rupees per annum from among the confiscated territory of rebels. Recently a complimentary speech was made to him by Lord Canning at the Umballa Durbar; and the right of adoption from the Phoolkeea clan was conceded to him: he has however a son who promises to turn out well. He keeps his

troops in good discipline : he looks after the administration of his territories and does judicial work himself. He is a thoroughly good and satisfactory Native Prince : loyal, sincere, and plain spoken. While he was absent at Delhi the mutinous sepoys from Jullundur passed by his defenceless capital. His servants, however, shut the gate in time and prevented the mutineers from entering. The escape, however, was a narrow one.

At this Puttiala Durbar the young Raja of Nabha was an honored guest. He is a handsome and well-educated young man, about twenty years of age. His position in the Cis-Sutlej States is about equal to that of Jheend. During the disturbances his troops were available for the protection of the road between Umballa and Loodiana and also of Loodiana itself. They were the only men available to dispute the passage of the Jullundur mutineers across the Sutlej, when young Ricketts of the Civil Service so greatly distinguished himself, and they were afterwards employed in escorting the siege train which enabled the final blow to be struck at Delhi. During that trying time the young Raja left Nabha, his capital, and staid at Loodiana. He has been rewarded by a grant of confiscated territory. To him also Lord Canning addressed special acknowledgments on the recent occasion at Umballa, and announced that the right of adoption would be conceded.

The local celebrities at the Durbar were numerous, and though the time occupied was long, yet it did not seem tedious, as there was so much to see, and as new arrivals were constantly marching up. Native etiquette did not permit that the English ladies should actually be present at the Durbar, but a place was provided for them, whence they could see every thing without themselves being seen. They were permitted to see and converse with the young Bhurtpore Maharaja, and the little boy seemed for a moment to be quite happy in such society, after all the public exhibitions and State ceremonies to which he had recently been subjected.

The State jester was also present at the Durbar, and enlivened the gravity of the proceedings by the ridiculous account he gave of himself and his achievements. He personated the character of the Commander-in-Chief of the Bhurtpore armies, and made himself out to be a regular Bombastes. There were also other professional jesters who wander about visiting the Courts of the Native Chiefs in the Cis-Sutlej States. These men are capital mimics. They dress themselves up as soldiers, as merchants, as priests, as chiefs, in fact as all sorts of persons. In this feigned character the creature comes up to you, makes a profound salaam, and enters into conversation

with you. Unless you happen to know the wretch, the chances are you are taken in. One of these men went the round of all the Courts of justice at Lahore: in one Court he would appear as a pleader, in another as a plaintiff, and so on. In one Court he impersonated to perfection an old woman screaming for justice. The officer was thoroughly deceived, and was about to pass an order on the complaint, when the joke was discovered!

When this Durbār was over the company parted, but to meet again the same evening and witness the fireworks at the Blurtpore encampment. The display came off at the Motce Bagh or Pearl Garden which we have described already. In about an hour about £1,000 or 10,000 Rupees worth of fireworks were let off. There were little forts, which burst forth in a sham cannonade, and ultimately flew up with an explosion that shook the ground. There were squares like squares of infantry that kept up rattling fusillades for many minutes together. There were masses that kept shooting forth showers of balls of silvery light. There were rockets from the descending "rain" of which there issued forth little serpents of light that wreathed themselves into bright coils against the dark sky. Then there was that kind of firework in which natives so much delight, namely, the one which produces fountains of fire, and from which the sparkling light does, as it were, come bubbling up, and then flows over and passes along, just like the water of a natural fountain. The visitors viewed the spectacle from the gateway of the garden, having first descended from their elephant. Some of the elephants, that were raw to this kind of thing, rushed about a little and trumpeted forth from their trunks sounds of terror. But most of them stood fire very well.

After the fireworks the party proceeded to the Blurtpore tents for supper. There were two enormous tents joined, each as large as a fine banqueting hall would be, and round them was a large enclosure walled in with canvas. The furniture of these tents exactly fulfilled the idea of barbaric magnificence. Both tents were furnished much alike. There were the chandeliers of colored Bohemian glass in the utmost abundance. The ceiling, as it were, seemed hung with them all over: whichever way the eye turned these were seen to hang. Then all round the apartments there were mirrors of every variety: in whichever direction the eye glanced the reflections of the mirrors seemed to prolong space indefinitely. Then, on tables placed against the wall, as it were, there were set lamps and candlesticks, and gold and silver ornaments of every kind. The centre of one tent was open, and had nothing except a few ottomans and divans. In the centre of one tent, however, there was a long table groaning under the weight

of glass, and gold ornaments, and "fancy articles" of every kind ; the appearance of these tents was indeed that of curiosity shops ; the things in them were almost entirely European. But the idea that such things should be in tents, and form half of the camp equipage of a Native Prince, rendered the sight curious, and in some respects interesting. The supper for the European guests was laid out entirely in the English fashion. It was wise not to attempt a repast in the Asiatic style ; the little Maharaja was not there, as his attendants decided that it would not do for him to be up so late at night.

The next day was Sunday, and the European gentlemen remained in their encampment. The native gentry, however, occupied themselves in visiting each other. Corteges with elephants and horses, and retainers, and pursuivants, and avant-couriers were moving about all day from one encampment to another. On the Monday morning a party of European gentlemen and Native Chiefs went out hawking. The hawk is a great favorite with Native Chiefs in that part of the country, and every native gentleman keeps some of these birds. Some are trained to catch the partridge, which latter is found abundantly in the low brushwood which covers the waste ground in that neighborhood ; others are trained to catch hares. As the hare runs the hawk will swoop down upon it, and flap its wings in the hare's face, which confuses the hare considerably, when the dogs come up and make it an easy prey. Or sometimes the hawk will make a decisive swoop and fix its talons into the hare's head, and transfix the hare's eye with its sharp beak. The following day, however, the party went out to a neighboring place, which is the residence of the representatives of the Kythal family. This family are called "Bhaicee," which indicates high priestly rank among the Sikhs, and corresponds in meaning to "Fra" in Catholic countries. But the Kythal family always mixed largely in politics, and established a considerable principality, which, owing to the failure of direct lineal heirs, lapsed, some years ago, to the paramount power. The saying is, that half a century ago, when Runjeet Sing contemplated seizing the Cis-Sutlej principalities and adding them to the new kingdom of the Punjab, and when the threatened Chiefs proposed to make overtures to the British for protection, a meeting of the principal Chiefs was held to discuss this policy. At this meeting the Rajas of Puttiala, Jheend, Nabha, and the Bhaicee of Kythal were present, and these were the four principal men. The Kythal Bhaicee expressed his opinion in this wise—"My friends, 'it is a case of death for us either way, if we fall into the grip of Runjeet Sing we shall die sharp of Asiatic cholera : if we come under the shadow of the British, we shall pine away of slow

‘consumption.’ Such is the native story. As regards Kythal, the Bhaice’s own principality, the prophecy has turned out in a certain sense true, though the lapse of the Kythal principality was strictly in accordance with treaty and prescription. But as regards the other three, it has happily turned out contrary to the event, for all three, Puttiala, Jheend, and Nabha, are firmer now in their possessions than they were then. To return to the Kythal family, their collateral descendants live near Puttiala. The estate now held by them lies on the banks of the Guggur stream, along which bank there extends for miles a jungle of magnificent grass (called Punneo) five or six feet high, just like a vast field of sugar-cane. In this cover many sorts of animals live, wild hog, deer, antelopes, neelgye, hares, besides partridges innumerable. The way to beat this jungle is by lines of elephants, with the sportsmen in the howdahs. Sometimes a wild pig will break cover, sometimes a herd of deer, and sometimes both together. An excellent shot can be had from the elephants as the deers dash through the high grass with immense bounds : and when a goodly number of pig and deer get up together the bullets fly fast and thick. The Bhaice himself was out; he rides and shoots well, and is altogether an intelligent, well-educated, and agreeable man. On horseback he looks the very picture of a native gentleman. After the sport, the party reposed under the canopy afforded by the foliage of a great banyan tree.

The Puttiala festivities were concluded by a Durbar in the Bhurtpore tent, and the display of the bridal presents. The reader can imagine what a gorgeous effect the native dresses must have had among all the lavish richness of the furniture. On these occasions taste and arrangement are not to be expected. The effect, such as it is, is produced by an aggregate of the gaudiest colors and the richest materials. The little Maharaja sat this time on his own throne, and evinced much less shyness than might have been expected. The display of the bridal presents took place in the great quadrangle of the Puttiala Palace, and formed truly an extraordinary sight. The reader will remember our description of the size and spaciousness of this square. Well, the entire floor was covered with shawls, silks, embroideries, ornaments, and jewellery, narrow interstices merely being left for people to move about in. In the centre square were laid out the presents from the Maharaja to his daughter, corresponding to what we should call plate and wardrobe, and jewellery : besides this there were set out bags of Rupees amounting to three lakhs (£30,000). The value of all the presents, cash and other things, was computed by the attendants at five lakhs of Rupees (or £50,000). The

quadrangle could best be seen from the upper-rooms, and the sight of this spacious square—one mass of flaunting colors and glittering ornaments—gave one an exact idea of the Oriental style of magnificence. But besides this the floors of the hall of audience and of the surrounding apartments were also covered with similar articles; these were presents to the bride from the Cis-Sutlej Chiefs; in one room would be the Jheend presents, in another the Nabha presents, and so on.

After viewing these the party adjourned to an upper-room, overlooking the outer quadrangle; and then the “live stock” presented to the bride began to defile before the company. A string of horses, in single file, marched past, about 250 in number: these were chiefly, if not entirely, of the Cis-Sutlej breed. This part of the country has always bred horses, and been famous for Sikh horsemen; the horses are all high and stout, with immense crests: but they are coarse and have not much endurance; they would not be highly esteemed by Europeans. The horses now exhibited had all kinds of gilt and silver trappings and ornamental clothing. After the horses there came ponies of Himalayan breeds, from Ladakh, and Yarkund, and Cashmeer, and Affghanistan. Then came a string of fine camels, the breed of camels being excellent in this part of the country, and then a string of elephants, mostly from the Himalayan Hills north of Hurdwar.

That evening all the presents were conveyed to the Bhurtpore camp. The Maharaja of Puttiala gave the whole camp a special feast, himself entertaining the principal persons. And the next day the great camp was in motion on its return to Bhurtpore. The little bride and bridegroom, however, were not exempt from the ills of humanity on the march, for they both caught small-pox, which, with children of that age, is a very dangerous complaint: they both fortunately recovered.

The Puttiala Maharaja certainly managed the monster hospitalities with great skill and success. His health was drunk by the European guests in regular British fashion. When he moved about the streets of his capital it was remarkable to see how the great crowd saluted him with an appearance of real devotion and loyalty. Native rulers may be inferior to us in administration, but they certainly secure a sort of personal veneration from their people, which European rulers never obtain from Asiatics. There is no mistaking the genial expression in the faces of a crowd, the very glistening of their eyes, the devout bending of the head, when they salute a Native Prince, especially on occasions like this one, when all their sentiments are aroused.

As already explained, the hospitalities were most extensive, and the cost to the Maharaja must have been very great. But



then each kinsman or friend, on such occasions, presents a marriage gift, called "Neota" or "Tumból," to the host. At such a time as this, these presents must have amounted to a large sum. But there was one kind of hospitality which the swell mob expected to receive at the hands of the Bhurtapore Maharaja. The custom has been in this wise—a gigantic enclosure, called a "Barha" is formed, the space marked off is surrounded by a wall of dry bush and bramble, ten feet high and proportionably thick, just one little narrow entrance, sufficient to admit one person at a time, is left, and this is strongly guarded. Into this enclosure there are congregated all the beggars, wanderers, blackguards, dancers, prize-fighters, professional thieves, pick-pockets, and miscellaneous ragtag and bobtail that can be found about the place. The reader can imagine what a number, how many thousands of such gentry, might be found on occasions of royal weddings. There is no prohibition against respectable men entering the enclosure, but of course no man, with the least regard for his character, would show his face there. On the other hand, the scum of society look forward to the Barha for months beforehand. Before this very occasion a number of bad characters who were under Police surveillance, and were not allowed to leave their homes without ticket of leave, applied to the Magistrate for such leave, and explained that they desired to enter the "Barha," which they presumed would be held at Puttiala. Well, when the "Barha" is ready on a fixed date, the motley assemblage is collected, and kept there for some hours till the place becomes as full as possible: not a man who has entered is allowed to come out again till the fixed time; one would think that the whole thing was like the black hole: but these creatures like it. Then, at a fixed time, commences the exodus: one by one the people pass out: and as each man passes through the guarded opening, he is presented with one Rupee! And this Rupee is supposed to defray the cost, which the man has been put to, in maintaining himself for the period during which he has honored the place with his presence. Sometimes as much as a lakh of Rupees is paid away in this manner. A more ridiculous or wasteful expenditure cannot be conceived. The Native Chiefs fully understand the absurdity, but dare not, of their own motion, break the custom, for fear of being cursed by the beggars. When the young Raja of Nabha, whom we have already mentioned, was married, Mr. Barnes, the Commissioner, witnessed one of these "Barhas." Being much impressed with the folly of the thing, Mr. Barnes, on this occasion, advised the Maharaja of Puttiala to discountenance a Barha being held. Fortified by this advice, the Maharaja followed his own inclination

and set his face against the "Barha," and thus the scandal was avoided.

We thus conclude this brief account of the marriage ceremonies at Puttiala. If an artist had been there to depict the scenes, he might have found a dozen or more of highly characteristic subjects for the pencil. We have ventured to hope that the matter may have some interest to the general student of Indian life and customs. Sure we are, at all events, that the internal history of the Cis-Sutlej States is worthy the attention of the Indian politician. Before 1857, the protected Sikh States were bound to us by associations of half a century. During 1857 they thoroughly committed themselves to our cause, and have since been well rewarded. Probably there is not at this moment any part of India on which we have more right and reason to rely. These States again comprise the centre of the great clan of Malwa Sikhs. By this means a certain influence is secured over the Punjab. Again, the States are so situate that from them a political lever could be obtained, whereby, in emergency, to apply force to Hindostan. The independent Chiefs themselves have, of late years, greatly improved their administration after the European model. First, the boundaries of estates were marked off, and this prevented the recurrence of disputes which often led to bloodshed. More recently they have begun to measure the fields and cultivation, and to fix money assessment of the land-tax. At this present time a large part of the land-tax in Puttiala, Jheend, and Nabha is paid, not in kind, according to the old system, but in cash. They are establishing something like Courts of justice and improving the police administration. It is probable that the States of Puttiala, Jheend, and Nabha are administered nearly as well as the adjoining British districts. The country is flat, and would appear uninteresting to the travellers. But from the northern portions fine views of the Simla ranges of the Himalayas can always be obtained in the winter. But it is in the southern portion that historical and political interest centres. The history of the tract, before the Mogul era, is not known with any accuracy. The old fort of Bhutenda, (now in Puttiala territory,) one of the most imposing masses of architecture in all India, attests the fact that in that age there must have been a powerful sovereignty in this province. This structure is of astonishing proportion, and exceeds in size the fortress of Agra, or any of the Mogul fortresses. It is situate in the midst of an arid unproductive country, and being off the main lines of road, (though there is a commercial road running by it,) is not much visited by Europeans, but we venture to think that the most experienced of Indian travellers would be amazed at its magnitude. Well, it is near here that the birth-place and cradle of

the great Malwa Sikh clan is situate. The soil is dry, sandy, salubrious, possessing those qualities which, in Northern India, are known to favor the development of the human frame,—tall, manly, hardy men are always to be found in places of this sort. The locality has been called, with great truth and wit, *arida nutritrix leonum*, which is exactly applicable, inasmuch as the Malwa Sikhs are designated Singhs or Lions. It was here that "Phool," the common ancestor of all these princes, a wandering peasant from Rajpootana, first began to occupy land. At that time the fiscal officer of the Mogul Governor at Lahore objected to "Phool's" presence, and summarily evicted him. Soon afterwards, however, Phool returned with some stalwart relations, and firmly established himself there. As each village was founded, it produced some men who established a name or a family that afterwards became famous. Thus each village in that locality has a sort of historical association about it, and as the country is quite flat, the travellers ascending any one of the lofty houses or towers in this vicinity can descry several villages rising out of the plain; every one of which is connected with the subsequent history of the Cis-Sutlej States. The people have been distinguished for physique and agricultural industry rather than intellect or acuteness. When the last of the great Sikh prophets, Gooroo Govind, was travelling about, making converts to the politico-religious sect of the Sikhs, he specially favored this part of the country, probably finding that the simple people were more docile and more amenable to superstitious influences than elsewhere. It is near this that Mokut-Sur, or Tank of the Martyrs, one of those spots most venerated by the Sikhs, is situated. Many and many a solitary tree in the midst of the waste marks a spot where the prophet rested after his wandering, and began to unfold his doctrine to wondering rustics. And many a village has traditions of the hairbreadth escapes of the holy man from the vengeance of Mogul officers. Even some jungles are shown where the hunted and much vexed prophet lay hid for a season. These recollections still survive, and were of great service to us when, in 1857, the Sikhs were invited to do battle against an upstart descendant of these very Moguls.

- ART. IX.—1. *Financial Statement by the Right Honorable James Wilson, delivered before the Legislative Council. 1860.*  
 2. *Exposition of New Taxes for information of Natives. Published by authority. 1860.*

WE have placed at the head of this Article the printed report of Mr. Wilson's Financial Statement. The delivery of that speech formed an era not only in the Finance of India, but also in the contemporary history of the Empire. The finances of India, both retrospective and prospective, were laid bare. Measures of taxation were proposed, which will have the effect of laying appropriate burdens on the richer classes, instead of putting a drag on the wheel of trade and industry. Other measures of great importance, such as the establishment of a new Currency; the formation of a real Finance Department, after the model of the Treasury and Exchequer in England; the organization of a Police, which may justify a positive reduction of the Native Army, were foreshadowed. The advantages of frank publicity in matters relating to imperial administration were recognized; and a generous appeal to public opinion was made. So far as the Bengal Presidency generally, and the European community of the capitals of Madras and Bombay are concerned, that appeal has been cordially responded to. Although the chief among the new taxes touches the Europeans directly, and, indeed, falls upon them more than any other tax could possibly fall, they have lent a warm support to the Queen's Government at this juncture, and set the best example to their Indian fellow subjects. Their conduct has indeed been truly disinterested and patriotic.

As every one knows, the three taxes proposed on that occasion were, *firstly*, an Income Tax; *secondly*, a Licensing of Arts, Trades, and Professions; *thirdly*, a Tax on Tobacco. For the two first taxes, namely, Income Tax and Licences, the Bills were read a second time at the meeting of the Legislative Council on the 14th April. These Bills must accordingly be now under the consideration of Select Committees of the Council, and will, apparently, be passed finally within a month from that date. From the printed draft of the Income Tax Bill, we observe that the Act is to come in force from May. It would seem probable that a similar date will be assigned to the Licence Bill. No Bill for the Tobacco Tax has yet been presented to the Council. As these three taxes form one of the main topics of the day, we shall endeavor briefly to discuss their main principles, without fatiguing our readers with unnecessary details.

But as it has been said that the Financial Crisis might be met by means of reduced expenditure alone, without the imposition of new taxes, we shall premise with a few remarks on that point. The year 1856-7 was a favorable period, financially, that is to say, the Government just managed to make both ends meet. Its revenues were tolerably abundant; its expenditure not excessive. And now Indian economists harp upon that expenditure, and desire to return to it. The expenditure of 1856-7 is fast becoming a political cry, just as the expenditure of 1835 was long the cry of the Ultra-economists and Peace-at-any-price Party in England. Every one knows how delusive the hopes of that party in this respect have proved to be. If similar hopes shall ever arise in India, they will, we fear, be equally disappointed. We believe that for some years to come the expenditure of the Empire will not come down to any thing approaching the standard of 1856-7; and we fear that it will never again be reduced quite down to that point. Our readers will readily believe that no reductions in the purely Civil Departments are possible. The salaries of the Covenanted Service no longer constitute a matter of class-interest, or exclusive patronage. The competition system has brought the prospects of the Indian Civil Service into the English market. Intellectual fitness is, like other things, a marketable article. If the Queen's Government wishes (as doubtless it must wish) to secure first-rate young men for the Indian Civil Services from the schools and colleges of the United Kingdom, then a certain scale of advantages must be held out. The competition system has been under trial for some four years: and, though excellent young men have come out to this country, still it is evident that the existing salaries are only just sufficient to attract first-rate English talent from the educational institutions of the mother country. Unless, therefore, the salaries were kept up, it is doubtful whether the men whom Government would desire to have could be had. The salaries of the Uncovenanted Services are almost sure, on the whole, to be raised, as the field of employment is fast extending, as more and more opportunities are opening, and as the qualifications of the Officers themselves are advancing proportionably. No doubt the various civil contingencies may be checked and reduced; and purely ministerial establishments might be prevented from increasing. But it is notorious, even in this branch of expenditure, that the salaries of native ministerial officials are too low to secure honesty and fidelity. Then the doing away with the defective organization of the Police, and the substitution of a really organized Police, will be sure to add

to civil expenditure: although the measure may enable Government to reduce the Native Army. Then all additional expenditure in the Educational Department has been stopped for some time, yet every well-wisher to the progress of the native population will desire that this restriction may be relaxed as soon as the Finances may permit. Here again some increase of expenditure may be looked for. Then it is sufficient to barely mention Public Works, which have unavoidably been starved for some time past. In this Department the necessities of the country cry aloud for increased expenditure as soon as it shall be possible. Then let it be remembered that since the favorite epoch of 1856-7, the interest of the Indian Debt has been increased by *two* millions annually. Here is a downright addition which no skill can obviate, no economy avoid.

Then as to military expenditure,—in this controversial age, when no two opinions agree on certain subjects, there is one point on which absolute unanimity reigns in the minds of all Englishmen, namely, the increase to the European Army. But as there is no object so necessary, so also there is none so expensive. Not only will the disbursements of pay be great, but the Commissariat will be most expensive. And the increase of Europeans will surely produce the effect it has invariably produced heretofore, namely, a great rise in prices. The deduction from experience is, that it will, in future, cost much more to maintain an European soldier in India than heretofore. There will, at the same time, be a vast increase of artillery, ordnance stores, and material to be reckoned on. Doubtless a really great reduction of the Native Troops is to be expected, but then such reduction will never counterbalance the increase to the European Force; and against this reduction the increased cost of the organized and quasi-military Police (without the formation of which the Native Army cannot be reduced,) will operate as a partial set-off. Moreover, whatever reductions may be managed, cannot take effect at once. There are obvious political objections to hasty and inconsiderate reduction of Native Troops and Levies. Mr. Wilson, in his speech to the Legislative Council, on the 14th April, gave a remarkable instance of the practical difficulty of giving immediate effect to proposed reductions. Even the able and energetic Government of Madras, which was most earnest in the matter of reductions, and proposed to effect great diminution, found itself unable to carry out its intentions for many months. But in his speech before the Legislative Council, on the 21st April, Mr. Wilson showed the reductions in the military expenditure within the last two years. These have indeed been great—three and a half millions already have been reduced, one and a

half are being reduced, one more is expected to be reduced, and perhaps one more after that. In all six or seven millions of reduction. This would bring the expenditure down by about one-third from its highest limit, and to about fourteen or thirteen millions per annum. But even this minimum will be two millions in excess of the eleven millions which used to be the cost of the Army before 1857. There must evidently be a permanent addition to our military expenditure of two or three millions per annum in consequence of the events of 1857.

The most cursory glance at the above points will show that a return to the expenditure of 1856-7 is impossible. The English Government at Home is, in intention at least, notoriously economical. No thinking man can doubt that an English Statesman of Mr. Wilson's stamp will reduce expenditure to the lowest point compatible with efficiency. But we do not see how he can, do what he may, retire within the limit which existed before the Mutinies. But even in that year, and in the most favorable cycles of financial years, our income did not do much more than cover expenditure. In times of profound peace both ends did certainly meet. But the moment that any trouble arose this meeting was rudely parted; and when the rent became dangerously wide, a new loan was opened. In England, when a Chancellor of the Exchequer has fixed the expenditure side of his Budget, he can consider his ways and means, and, if necessary, lay on the requisite taxes. Again, if one tax is found to be unduly detrimental, it can be lightened or abolished, and another one can be substituted. But heretofore the income of the Indian Government has known no such elasticity. If the deficit is great, the only known stop-gap is a loan. If a particular tax is felt to have a depressing effect, still relief cannot be afforded, because there is no other conceivable tax to fall back upon: no new resource to be hoped for. Yet none can doubt that, if some of the existing taxes could be safely mitigated, industry and wealth would increase. The tendency of late years has been to reduce the assessment of the land revenue in many parts of India: wherever such reduction has taken place the increase of cultivation has been remarkable. The reduction of assessments in some of the Madras districts caused an immediate increase of cultivation, and reduced the emigration of coolies to Ceylon, to the dismay of the coffee planters in that island. Any loss or trouble to the coffee interest is of course greatly to be regretted; but we merely point to the fact to show the decisive consequences which follow a reduction of land revenue. Instances of the benefit of reduction of land-tax might be multiplied from all parts of the Bengal Presidency. Then

Mr. Wilson has clearly shown now that the high rates of Customs Duties can be reduced with advantage.

Again, it has been stated that doubts are entertained in some quarters regarding the existence of a large deficit at the present time. We fear that unfortunately not the least room for any such doubt exists. Would indeed that there were! It does indeed seem to be *prima facie* impossible to avoid the conclusion that there must be a deficiency at least as great as that declared by Mr. Wilson. The calculation which brought out a deficit of six millions appears to be based on the best data available. The *actual* expenditure of the previous year was taken, from that were deducted *all* decreases which could be relied upon or could be reasonably expected. And still there results the deficit. So that *if* all promises of reduction are fulfilled, *if* all hopes are realized, there will still be a deficit *even at the best*. But supposing that some expectations remain unfulfilled, (and every one experienced in public affairs knows how fallacious such expectations often prove to be,) then the deficit will be even greater than that stated. Doubtless a more certain conclusion can be drawn as soon as the Budget, promised by the late Financial Resolution, shall have been framed. But the existence of a large deficit, more or less, is proved not only by figures, but by all probability, and by a variety of collateral considerations.

The uncertainty of the opium revenue has so long been a favorite theme with Indian publicists, that the bare mention of the topic is enough in this place. The opium revenue is still buoyant, the last sales were highly profitable: but the culture of the poppy has been legalized in China. John-Chinaman will soon be in the field against John-ryot. And the wolf, which has so long been prophesied, may come at last.

Again, whatever may have been said to the contrary, we believe in the growing prosperity of the country. An Indian Porter has not yet arisen to chronicle the progress of the nation. But so far as the force of particular statistics and general considerations can go, we may attest the correctness of Mr. Wilson's impressions regarding the material prosperity of India. Some exception has been taken to Mr. Wilson's comparison of the North-West Provinces with Belgium. But we suspect that many North-Westerners will accept the compliment as true. The other day we observed a statement in General Sleeman's Tour through Oude, from which it appears that those parts of the old kingdom which were incorporated in the North-West Provinces half a century ago, have doubled in revenue within that period. Then is not the increase of cultivation under the permanent settlement of Bengal quite notorious?



Does not the new survey show how the lands, waste according to the returns of Lord Cornwallis' time, are now under the plough? Do not the reports of Eastern Bengal speak volumes for the growth of the water traffic? Is not the face of the Hooghly covered from morn till eve with boats? Then the deeply interesting Minutes of Sir Charles Trevelyan's Tour in the Madras Presidency show the vitality and prosperity of the people in the Southern Peninsula. The external commerce of India generally is doubling in every decade. The increase is proportionately much the same in Calcutta, Madras, and Bombay. And then there is Kurrachee, promising to become the new Calcutta. Every census that has yet been taken in India points to the conclusion that the population is fast increasing. On the whole, then, we may have a good hope that the Empire will prove to be elastic under pressure; and that by the application of sound political economy to our Finance, some additional resources might be obtained for the State without interfering with that prosperity, which it must ever be the object of the British Government to cherish and promote.

Every one of the points urged would require to be supported by details in order to be thoroughly made good. But such details would not be interesting to the general reader. If these points, however, have been at all correctly indicated, then certainly it does seem that to return to the expenditure of 1856-7 is impossible; that even if that limit could be restored, it would not be satisfactory; that the existing deficit must be met by other means than loans; that the existing taxes require to be reduced rather than enhanced; that in the present condition of the country some new taxation is possible, if it were judiciously imposed. There are no data available to us whereby the exact amount required, or the period over which the deficit may extend, can be computed. But it seems certain that several millions, perhaps five or six millions additional revenue for sometime to come, will be absolutely needed. If, then, this sum is to be supplied by new taxes, there comes the question as to how they should be laid on.

Now, it is obvious to remark, that the resources of Indian taxation are not very numerous. Nothing more can be hoped for at present from the land-tax: if irrigation shall be improved and cultivation extend, the profit will be a matter of time. The Sea Customs Duties have already been raised to the utmost limit of safety. Stamp Duties are being already extended as much as possible—this branch of revenue is no doubt elastic, but it cannot afford any very great aid to the State. The Salt Tax is already considerable over all parts of the country: an increase of it is said to be

practicable in the Madras Presidency; but here again nothing very great can be expected. The excise on drugs and spirits is already pitched high: if it were raised much more it would become prohibitory. Transit duties, though a favorite device with native Government, are very objectionable, being oppressive, and detrimental to trade. Octroi duties, though popular in some parts of the country, are fitted for municipal rather than imperial purposes—if carried too far, they would affect trade in a hundred ways. The same objection applies to customs lines on the frontiers of the Empire. A succession tax would no doubt be a very fair impost: but it would be gradual in its operation, and would not yield much. The succession duties imposed in England have proved very unproductive: in India, too, the tax would be much evaded, on personal property, and would consequently fall almost entirely on real property. A tax on equipages, horses, and the like, would certainly not be productive in this country, as these things are not used in sufficient abundance. A tax on houses and windows would, no doubt, be practicable, but it is already imposed in many parts of the country for Police purposes. If it were enhanced, the assessment of it would be difficult, and the incidence unequal. It is evident, then, that most, if not all, the taxes which suggest themselves from Indian experience, would prove inadequate to the immediate wants of the Empire, besides being impolitic in practice.

Now Mr. Wilson has, avoiding all these expedients, determined to meet the crisis by imposing three new taxes, namely, the Income Tax, the Excise on Tobacco, the Licensing of Arts, Trades, and Professions. And we now propose to consider very briefly how far these measures answer the requirements of the time: how far they are likely to supply the State with the funds so imperatively needed: how far they press in fair proportion on rich and poor: how far they are free from any injurious tendency to depress industry or shackle trade: how far they avoid undue interference with the habits and customs of the people.

The first of the three taxes now proposed is the Income Tax. This impost has been familiar to all Englishmen as furnishing a mighty engine in time of any emergency, and supplying the means which enable the Governors to remit duties which press upon industry. It is well known that, since the introduction of that tax, the incomes derived from industry of all kinds, and classed under Schedule D., corresponding to Schedule 3 in the Indian Bill, have actually doubled. On the 14th April Mr. Wilson showed how the condition of clerks has improved in England, and predicted similar good fortune for the class of

clerks in India—the Income Tax notwithstanding. So also for India generally, one main advantage of the Income Tax appears to be this, that it interferes with nothing in particular, depresses no kind of industry, fetters no branch of trade. Most taxes that could be thought of do produce one or other of those effects, but the Income Tax does not. If a consumer has to pay an excise on an article, he may consume less, and the production is affected. If a customer has to pay a heavy customs duty on an article he may take less of it, and thus the importation is affected. But an Income Tax is paid from a man's general resources: and if it be moderate, it cannot be said to affect his consumption of any particular thing whatever. However unpopular a tax of this kind may be, it certainly will not hinder the growth of national prosperity: and this is surely an immense point. Then, again, the Income Tax is one of the few taxes that passes over the poor and falls on those who are rich, and are comparatively well to do; while it is at the same time really productive to the State. If a duty falls on an article used by the rich alone (such as equipages), it will not yield much. If it fall on an article of very general use, then, while it yields much, it falls absolutely as much on the poor as the rich; and relatively to the respective means of the parties, it falls much more heavily on the poor. Then the Income Tax is one that can be apportioned with precise justice to each person's means. It is sometimes said, thoughtlessly, that such and such districts, or such and such classes are too poor to be subjected to Income Tax. But if a district is impoverished, it will, from the very nature of the tax, pay but little. If a man has less than his neighbors, why, he will of course pay less Income Tax: while under any other duty, he would probably have had to pay just as much as others. Then, although the Income Tax, no doubt, has a forbidding aspect in the eyes of natives, still the strict impartiality with which it falls on all classes, European and Native, official and non-official alike, cannot fail to mitigate unpopularity. There is nothing like class legislation in the matter; no exemption of officials, no sacrifice of native to European interests. The financial crisis affects all: and all are interested in the stability of the Government, therefore all contribute to support the burden according to their means—the poorer classes being alone exempted. Such we conceive are some of the arguments by which the policy of an Income Tax may be justified.

Then as to the Bill itself, which is now before the public in the form which it bore at the second reading. The parts and sections in it are numerous—and will appear at first sight to be intricate. Those portions, however, which affect the mass of the

tax-payers, and tax-collectors, are simple enough. But in such places as the Presidency Towns, various questions might and doubtless will arise, for which provision must be made. The law advisers of Government therefore appear to us to have done quite right in availing themselves of English legal and practical experience in rendering the Act complete in all respects. As our readers know, the duty is to be levied on all incomes derived from four main sources: namely (Schedule 1), real property; (2) personal property, trades and professions; (3) public funds; (4) official salaries. Incomes under 200 Rupees annually are to be exempted. Incomes from 200 Rupees to 500 are to be taxed at 2 per cent. Incomes of 500 Rupees and upwards are to be taxed at 4 per cent., of which 1 per cent will be for public works, and will be specially administered by Local Committees. Except the said 1 per cent., all the other duties will be for the general service of Government. Power is taken to extend the operation of the Act for five years, from May 1860.

There are one or two main points on which a few words will not be out of place here. The Act provides that the main spring of the machinery in all the districts in the interior shall be the ordinary Collector, and that all existing fiscal districts shall be made use of for the purposes of this Act. By this plan the working of the scheme will be simple and easily intelligible to the people. The whole thing will be managed quietly, without any administrative paraphernalia, through officials to whom the people are accustomed, and by processes with which they are familiar. With the Collector there are to be associated two or three officers, (in the same way, we presume, as Local Committees are now formed,) and one or two non-official persons. In most districts the non-official member will in practice be a native. The association of such a person with the Collector ought to inspire the natives with confidence in the scheme. On every ground we advocate the vesting native gentlemen with administrative functions, wherever they are found to possess the requisite qualifications. In the Presidency Towns, instead of a Collector and his Committee, there will be a board of Income Tax Commissioners, of whom a fixed proportion will be non-official. In every place, whether in town or country, there will be an officer appointed to make special assessment whenever the parties desire it. A man may dislike, for particular reasons, to make a return before the Collector and the Commissioner. Therefore he may make his return and be assessed by a special officer, with every precaution for secrecy. Indeed, in this, as in all other points, the Bill makes stringent provisions for secrecy. The officers of all grades employed are sworn not to divulge any particulars. A breach of this oath is

punishable criminally. This would preclude them, we presume, from divulging even to Government. All records, &c., are to be sealed up.

The superior revenue authorities are to arrange for the disposal of the records. It will, we apprehend, be desirable that all these papers be destroyed periodically. The Act, as it stands at present, appears to provide very carefully for the prevention of anything like an inquisitorial process. In this respect it goes even beyond the English Act. In England a man may be asked questions, though he may decline to answer, and may be called on to produce his books, though he may refuse to do so. But by the Indian Act questions will *not* be asked; and books will *not* be called for. Every man is to make a return of his income under a sealed cover. A man will either be assessed according to his own return, in that case nothing further takes place, until the time for payment comes—or a man may be assessed at a sum in excess of his return, in that case he will be informed. If he submits, well and good. If he objects, then he may be heard before the Collector and the Committee (or the Income Tax Commissioners, if in Presidency Towns). Then he can say what he likes, and produce what papers he likes. The Committee will listen to what he chooses to say; and will look at whatever paper he chooses to show; and they will then exercise their own judgment. If he succeeds in showing that he ought to pay less than the amount first assessed, then he would be relieved accordingly. If he failed to do this, then the assessment would hold good. The *onus probandi* rests on him. The assessing officer will judge as he best can, from his own knowledge, from general considerations and probability, and from the facts adduced by the Magistrate himself. But no paper or book will be inspected, or business investigated, except such as the party himself may voluntarily bring forward. Obviously it would be impossible to frame provisions more considerate to the tax-payers than these: or to carry precautions against inquisitorial procedure further than these. Indeed, so far have they been carried, that sometimes the assessing officer will be obliged to make a somewhat conjectural assessment. Still in a matter of this kind it is well to err if there be error at all on the side of consideration to the tax-payers. Inquisition in the matter would be more unpopular in the natives even than with Europeans. And the entire avoidance of this will do much to popularize the introduction of the measure. Parties are to be allowed to compound for a fixed sum, progressively increasing one-twentieth per annum on the original assessment, for terms of three or five years. Incomes derived from the land

are to be taxed, if they exceed the minimum of Rs. 200. In many provinces, when the land is held by a peasant proprietary, there will be very few persons who come under the rule. For the profits of a landholder have been considerably assumed at 50 per cent. on the annual revenue—so, that, unless a man is paying so large an amount of land revenue as 400 Rupees, he will not be supposed to have a profit of Rs. 200 : and even then it will be open to him, if he likes, to adduce special proof that he has less. In Northern India, in most parts of Bombay, in the ryotwarre districts of Madras, there will not be many landholders paying income tax. In the permanently settled districts of Bengal and the Benares province, and Madras, the zemindars will be assessed according to their actual income from their estates. Many of these gentry will, no doubt, come under the Income Tax : and as they are the most fortunate class in India, they are certainly fair subjects of taxation. The business of the tax will no doubt add to the labors of the Collectors : but the work of assessment will not be constant, and will come round once a year only. They are in respect of local influence and knowledge, and administrative resources, the fittest agency for the execution of this important measure. Any other agency that could be selected would create an *imperium in imperio*, within each district, and establish a concurrent, perhaps a conflicting, jurisdiction. Such arrangements are always perplexing to the people, and weaken the force of any measure. The Collector will have a Committee to assist him : and there will be a special officer to try the more troublesome cases. The Bill provides for salaries, such as may be found proper, being allowed by Government, and we presume that the Collector will be able to employ such extra establishment as he requires. Indeed the Bill provides expressly that the Assessors shall be appointed by the Collector. We presume that the Assessors will be generally native officials of a class similar to the Tehseeldars in the North-West Provinces. Such generally are the provisions of the Bill as it stands at the second reading, and at this time of writing. But it is now before a Select Committee of the Council, and of course alterations may be made by them.

It is really vain at the present time to speculate on the amount which the Income Tax may be expected to yield. We have heard various calculations made with results equally various. The lowest calculation puts down one million or one crore, and the highest three crores. If the State Exchequer shall receive two crores a year from this source, it will be tolerably fortunate, but there really are no reliable data.

The next tax is that of the Licences. Every person exercising an art, trade, or profession, is to take out an annual licence. After the experience of Mr. Harrington's Bill any attempt at graduation is avoided. Such classification as is attempted is to be of the simplest kind. Artisans are to pay one Rupee, retail dealers two Rupees and four Rupees, wholesale dealers, bankers, and members of professions ten Rupees. These licences are to be paid by all persons who come under the above designation, and the tax is apparently to be permanent. With the upper and middle classes the licence will not be felt. With the lower classes it will be the contribution which they are to make to the fiscal requirements of the State. It has been said that it will be difficult to define what persons belong to the several classes respectively which are mentioned in the Bill as it stood at the second reading. Whatever defects there may be in the definition can be amended by the Select Committee to which the Bill has been referred. The objection is, we believe, theoretical rather than practical. In practice the Collector will soon settle which man should in justice pay one Rupee, which man should pay two Rupees, and so on. The impost is not heavy, and, like the Income Tax, does not press on any particular industry, nor interfere with any particular trade. It will not of course be popular. But it is notorious that similar taxes (Mohturfa and Visabadee) have, from ancient times, been collected in the Madras Presidency. And very recently this very Licence Tax was introduced peacefully and successfully in all the villages of the Punjab Territories, and partially in Oude also. Moreover, under Native Rule, these same classes are always subjected to direct taxation of one kind or other, which taxes have generally been remitted under British Rule. It is now high time that the lower non-agricultural class should bear its share in the burdens of the country.

The third tax is the Tobacco Duty. The arguments in favor of this tax were well summed up by Mr. G. Campbell in his pamphlet on the Finances of India. The tobacco plant is grown more or less in all parts of India. The consumption of the article, though not universal, is very extensive among all classes, yet it is not a necessary absolutely; but really partakes of the character of a luxury. It cannot be called a necessary, when the Sikhs, who are physically the finest race in India, do altogether without it. It is not likely that a moderate duty would perceptibly interfere with the consumption. No doubt a heavy duty, such as eight annas a seer, might have this effect, and might produce discontent. But it has now been clearly explained all over the country that the duty is not to exceed three annas a seer. The real difficulty in the matter is the mode

of levying the duty, and the details of the measure have not yet been presented to the public. In the mean time various methods have been discussed publicly; and to some of these we shall very briefly advert: the most easy and obvious method is to levy the duty on the cultivation itself. In most parts of India we have complete field surveys which are annually revised. Doubtless, every acre of ground under tobacco cultivation can be perfectly known. To levy a duty thereon would be quite easy. But then the tax would take the form of a direct impost on the land which already pays land tax. This may be objectionable, though the objection is perhaps apparent rather than real. And then arrangements would have to be made to prevent illicit importation of tobacco grown in neighboring native states, which, being untaxed, would be brought into our territories, and would drive our home-grown tobacco out of our markets. Unless this could be prevented, it were certainly better not to impose a duty which could only have the effect of transferring the growth of tobacco from our own territory to that of the neighboring Native States. In Bengal Proper this difficulty would not perhaps be felt; as that province is not mixed up with Native States where tobacco is grown. But it would be felt in those parts of the North-West Provinces which adjoin Central India, and in those parts of the Punjab which are interlaced with protected Sikh States and other Principalities. In the Bombay Presidency the territories of the Guicowar and the Nizam are in immediate contact with most of our districts. \*And many of the Madras Districts are in contiguity with the Mysore and Hyderabad Territories. The smuggling of tobacco then would have to be carefully guarded against. And this could not be done by the establishment of preventive lines. Such lines do indeed answer very well when the frontier is tolerably straight; and when the articles are bulky. Many of our readers will have heard of the great customs hedge, made of bushes and brambles, which exists on the North-West line, and extends, for many miles, like a Chinese wall. This may be effectual enough to keep out articles like salt or sugar, which, if brought at all, will be brought in large quantities. But tobacco smugglers, who operate along a frontier running not in a straight line, but in a series of minute zig-zags, and who carry the article in small quantities on their heads or about their persons, will not be kept out by a Chinese wall. Moreover, the smuggling would be so profitable that the smuggler could well afford to be caught now and then. The difficulty is indeed considerable, though we believe that, with good arrangements, it may be met. Then it has been proposed to manage the Tobacco Duty on the same plan as that by which the excise on drugs and spirits is



managed. This is, no doubt, quite feasible. The exclusive privilege of dealing in tobacco would be sold by auction, and all producers and all consumers would be obliged to deal with the Government contractor. The competition is supposed to keep up the price of the contract. It would then become the contractor's interest to prevent smuggling, and as he would possess much knowledge of the trade, and of the habits of the smugglers, he would no doubt be able to check illicit practices. Thus, from motives of self-interest, the contractor becomes a sort of preventive officer. This plan then does, to a great extent, obviate the objection to which other plans are open, namely, the difficulty of preventing illicit practices. But this method would not render the tax so productive as it might be otherwise. The absence of any fixed duty causes great uncertainty as to the productive power of the duty. A large share, none can say how large a share, goes to the contractor. And thus, while the people pay a great deal, the whole does not go to the State. The fiscal profit is not proportionate to the sacrifices which the tax-payers make. Another method would be a Government monopoly. This is of course feasible, and may think it the best plan. It would certainly be productive: though it would entail much administrative trouble. Probably the best plan will be one that shall partake partly of the character of monopoly, partly the character of the contract system, but which shall ensure the amount of State revenue by means of a fixed duty. The cultivator might be obliged to dispose of the tobacco either to a licenced contractor, or to a Government establishment. The contractor might take out a pass for all the tobacco he received, and might be placed under excise supervision. And he might pay a fixed rate of duty for all the tobacco he sold to retail dealers or others. In case there should be an insufficiency of contractors or wholesale dealers, or in case these persons should combine either to evade the Government duty, or to deprive the cultivator of a fair market, Government ware-houses or dépôts might be established, where the tobacco might be received from the cultivator at a fair price, and then sold to retail dealers at a price sufficient to cover the prescribed duty. The wholesale dealer may not have so strong an interest in stopping illicit practices as a contractor would have under the competition system. But the wholesale dealer would have a considerable interest in the matter, and so far would assist the excise authorities. And then, after all, the Collector could do something through his own establishments for the prevention of smuggling. The arrangements would vary in different districts; but some arrangement or other could always be made. And it is

probable that adjoining Native Independent States might often be induced to introduce a Tobacco Tax of their own similar to ours. And then there would be no danger of British grown tobacco being undersold.

A system not very dissimilar to this has been adopted by the Bengal Government for the tax on the Gunja (an intoxicating drug,) produced in the Rajshaye district. And now the duty is yielding three times as much as it used to yield under the competition system.

It has been proposed to include "pân" or "betel-leaf" in the same category with tobacco—and certainly the same arguments apply to the one article as the other. The pân is largely cultivated in Bengal, in Southern India, and in parts of Northern India also. The peculiar appliances necessary to protect the leaf from the sun (the enclosure of grass and sticks; the sticks up which the plant is trained to grow; the flat roof over the enclosure,) render the culture easily distinguishable. Whatever system shall answer for tobacco, would answer equally well for "pân."

Such then briefly are the new Taxes. That they are necessary has been clearly proved. That they will not prove oppressive has been shown with such argument as the case admits of. That they will be successfully levied may be reasonably hoped. An exposition for the information of natives has been published, so that there may be no misapprehension of the intentions of Government. We may trust that the natives will profit by the good example set by their European fellow-subjects, and will support the Government under whose protection they live; and that all classes will unite in cheerfully bearing a share of the burden imposed by State necessity, remembering that when such a great deliverance from imminent danger has been recently vouchsafed to the country, some temporary sacrifice in time of peace need hardly be grudged.











